

THE IMPACT OF MANDATING ON THE
OPERATIONAL CAPABILITY OF LOCAL GOVERNMENT

BY

JULIA RICHARD RIDGDILL

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By

Julia Richard Ridgdill

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This study sought to determine the impact that mandating has upon the capacity of local government to meet the needs and demands of its citizens. Mandating imposes the will of an ordinate level of government upon a subordinate to alter its policies, processes, procedures, organizational structures, or the availability of revenues. Any impact would be demonstrated through a reduction in planned services, or the deferral of a project. Such displacement represents the substitution of an ordinate level priority for a locally determined priority.

The device by which mandating has been institutionalized is the grant-in-aid. Acceptance of this grant-in-aid carries with it an acquiescence as to the conditions that must be complied with in the usage of these revenues. This creates a condition of dependency as pertains to fiscal and policy considerations.

It was found that mandating creates significant barriers to the delivery of local public goods and services. The foremost feature is the usurpation of the policymaking role by the mandating agency. This indicates a failure in the political system in that it did not provide clear and definitive roles and responsibilities for the competing actors. A second finding confirms the dependency argument. It was found that one county must rely upon grant income for 48 percent of its revenue: it is thus dependent upon that source; it has lost its autonomy. It is an administrator for an ordinate agency.

The study compares sets of empirical data for Florida and Pennsylvania. It was postulated that there would be a marked difference in the two sets of data since Pennsylvania has a constitutional provision against mandating without reimbursement. The empirical data strongly supports this argument. The perceived effect of mandating in Pennsylvania was well below that for Florida. The likelihood of a mandate creating a displacement in Florida was more than twice that for Pennsylvania. Only one of eleven factors pertaining to personnel mandates were disfavored by the Pennsylvania respondents while seven of eleven were disfavored in Florida.

These findings support the general argument that government by negotiation has been replaced by government by mandating. What is there to negotiate? The ordinate level attains all of its goals and objectives by mandating.

CHAPTER I THE MANDATE ISSUE

Perspective

Mandating by the federal government on state governments and by the federal and state governments on local governments has been expanding each year in quantity, range, and scope. The practice has proliferated to the point where its impacts have become one of local governments' most serious concerns.
(Lovell and Tobin, 1981, p. 318)

Introduction

The above quote signifies the seriousness and conflictual nature of mandated actions. In a study conducted by the Advisory Commission on Intergovernmental Relations (ACIR) (1978) it was clearly demonstrated that mandates have become one of the major concerns of local governments. Likewise, it has been empirically demonstrated by Lovell et al. (1979) that mandates create an adverse relationship in numerous areas and are therefore detrimental to the effective operation of local governments. What is lacking, in the opinion of Lovell (1981) and MacManus (1981), is an empirical evaluation of the impact of mandated actions upon the operational capability of local governments. This study addresses that aspect of the mandate issue.

Conceptually, the study looks at proper roles for two competing actors in the governmental arena; state level government and local level government. Traditional roles for these two actors will be identified and changes that have occurred will be examined. Operationally, this examination considers the impact upon the role(s) of local government that is caused by the imposition of mandates in two policy areas; fiscal constraints and personnel. Any resulting impact is evaluated as to its effect in four areas that influence the operational capabilities of local governments. Information gained should provide an insight into the cause of concern among officials of local governments as is evidenced in the above quote.

Background

The history of mandating is long and varied. But only recently has it emerged as a significant factor in the efficient and effective operation of local governments. Significantly, at least until recently, most problems associated with public safety, health, welfare, education, and morals (e.g., the abortion issue) were considered local in nature. As late as the 1960s some members of Congress still argued that federal aid to education was probably unconstitutional as well as undesirable. But that view has been drastically changed by events of the past two decades. And education is but one area that has undergone modification as pertains to traditional roles. It is essential that the concept of mandating be examined at this point in order to establish a basis for further discussion of the issue.

Concepts versus Usage

The conceptualization of any idea is conditioned by its usage. Unfortunately, the concept of mandating is not clearly defined or understood by many officials. Neiman and Lovell (1982) illustrate this lack of understanding as follows:

It is not always realized that local governments are subjected to forms of regulation much the same as that associated with private businesses. In reality, local governments are at the end of a funnel which pours forth with various forms of regulatory controls. While private businesses are considered to be regulated by designated federal and state agencies, local governments are subjected to a system of control that can be subsumed under the title "the mandate issue." (p. 343)

It is within this context of mandates being a form of regulatory control that the issue must be considered. For by their definition and usage mandates are intended to regulate or control.

Mandating can be defined as any constitutional, statutory or administrative action that either limits or places a requirement on local governments. Although it can be argued that constraints such as Proposition 13 (California) and Proposition 2½ (Massachusetts) are mandates, these actions must be excluded since they represent initiatives by the voters and therefore express the views of the constituencies. Additionally, they do not represent a cost to these voters. And to reiterate, the central issues in delineating mandates are that costs are imposed on, or that decision-making authority is restricted or constrained for, local government officials.

Mandates can affect either the revenue or expenditure side of local budgets. Any action by a higher level of government that imposes a constraint upon the capacity of a local government to generate resources is a mandate that affects the revenue side of the budget.

Mandates that specify the performance of a new program or activity will create an impact upon the expenditure side of the budget. These latter actions might also specify the amount of local government funds that can or will be spent on a given activity. Where expenditure restrictions are specified, local discretion is eroded.

This is not to say that all mandates are necessarily wrong. There are valid reasons for instituting mandates. Five major reasons have been utilized as justifications for a state to impose a requirement that local governments provide a service meeting certain standards or that the local government perform a given function. First, the state may decide that the activity is of sufficient importance that the decision to perform the activity cannot be left to the discretion of the local governments. A typical example of this type of mandated activity would be any of the actions associated with environmental protection. Second, statewide uniformity in the provision of the service might dictate that specific criteria be established. Most education mandates are of this type. Third, tradition may be advanced as a justification for state mandates that historically were justified but are not now. Fourth, mandates may be supported on the grounds that they will promote achievement of a desirable economic or social goal. And last, mandates have been advocated as a means of shifting functions downward in order to reduce the cost of state operations.

Legality versus Equity

The doctrine of state supremacy over local governments provides the legislature and the courts with authority to issue directives to local governments. While this notion might appear to be in conflict

with the concept that municipalities possess certain inherent powers of self-government, it nonetheless is the legal foundation for mandating. The doctrine was established in 1868 when Judge John F. Dillon held that municipal corporations owe their origin to, and derive their powers and rights wholly from, the legislature. This interpretation has subsequently been referred to as "Dillon's Rule." In 1923 the United States Supreme Court refused to recognize an inherent right of local self-government.

Acting upon the basis of Dillon's Rule, state legislatures have enacted numerous special laws which affected local governments. These mandated actions were both good and bad. Although the laws enacted were beneficial in many instances, it also led to the abuse of legislative powers. Many states have found it necessary to enact constitutional amendments that prohibit the passage of special laws.

In sum, to this point, mandates are seen as actions by sanctioned authorities to impose their will upon a subordinate level of government. Justification for any such action might meet one of five reasons utilized by various higher levels of government. There seems to be one consistent element to be evaluated in the imposition of any mandate. That element pertains to equity. It is this aspect of the mandate issue that creates the problem.

Equity might be stated - in its simplistic form - as that condition where the aggregate benefits are equal to the aggregate losses associated with a given transaction. However, this optimum condition rarely, if ever, exists. It is essentially for this reason that mandates are a necessity in a complex society. The operative question is: How can the intended outcome be achieved? And is this

outcome the best? These and similar questions have led to what is referred to as "Public Interest Law" or the attainment and preservation of equity.

Much of mandating today is closely related to the equity question, and to the public interest. Specifically, the areas of environmental protection, education, and civil rights account for the preponderance of mandating activity. The element of equity is evident in each of these areas. It is also evident that the public interest needs to be protected in each instance. A person unfamiliar with the intricacies of American politics and American societal conditions might well wonder why it is necessary to have mandates in areas that are so vital to the well-being of the nation. While mandates within these areas clearly meet the justifications outlined above, the ACIR (1978) study indicates that many officials expressed an opinion to the effect that such mandated programs and activities have not achieved their intended outcomes. The statement of a national goal or objective is one thing; implementation is yet another. And it is this implementation process that has caused so much concern among local officials.

Although many mandated activities are clearly justifiable there are others that are not looked upon with the same degree of enthusiasm by local officials. It is perhaps the magnitude of mandating more than the substance of mandating that is so pervasive. Only 10 percent of the mandates are programmatic; it is the remaining 90 percent - those that are procedural in nature - that cause the most problems at the local government level. Yet in most instances the two segments of the mandate issue are related and thus create a most difficult problem to resolve, if such is possible or desirable.

Mandating by the federal government on state government and mandating by the federal government and state governments on local governments has been expanding each year in quantity, range, and scope. The practice of mandating has proliferated to the point where its impacts have become one of local governments' most serious concerns. Lovell and Tobin (1981) have described the problem thusly:

The practice of mandating has reached the point where the parameters of choice for local governments have been significantly constrained. In fact, evidence is beginning to accumulate that mandates serve as the most important determinant of local government expenditures and as the single most important influence on local government policy making. (p. 318)

This view has been substantiated by various studies and authors as will become evident throughout this study. Suffice it to say that a problem does exist.

Purpose of the Study

Scope

The study will evaluate four related facets of the mandate problem: (1) the extent of encroachment upon local government roles; (2) the implications of mandates on federalism; (3) the implications of mandates on democratic control; and (4) the effect that such actions have on local service delivery systems. Each facet to be examined has a potential for influencing the operational capability of local government.

Encroachment

The extent of encroachment upon traditional roles of local government through the imposition of state mandates must be determined. Given that there is a linkage between mandated actions and the

operational capability of local governments, the extent of encroachment bears significantly upon the assignment of proper roles to these units. Specifically, the authority to establish priorities for programs to meet the needs and demands of the local population must be established and evaluated so that a proper role for these local governments can be postulated. Subsequently, this role must be equated with the responsibility of the state governments to initiate programs that are deemed to be universal in nature. This question goes to the very root of the problem and is readily recognized as a test of the concept of "functioning federalism."

Traditionally, government is not something which just happens. Weldon (1947) implies that government has to be "laid on" by somebody. In the United States, government at the lower level is laid on in accordance with Dillon's Rule - and has been since 1868. This rule essentially says that all local governments derive what power and authority they possess from the state. And taken to its most rudimentary form, government can do three things:

1. First, it can permit. This is the classic example of what governments are allowed to do. The Constitution of the United States is the supreme device by which government is laid on in the United States. This document permits the federal government to do certain things. It also permits the states to do those things which are not proscribed. It does not permit local governments to do anything. The role of a local government is derived from the state government. Dillon's Rule! The exception to this occurs where "home rule" is allowed and practiced and this aspect will be discussed in a subsequent part of the study.

2. Second, governments can prohibit. The Constitution prohibits both state and federal governments from doing certain things. And both state and federal governments prohibit local governments from doing certain things.
3. Finally, governments can mandate.

It is this last capability of state and federal governments that appears to be so bothersome to local governments and gives cause for this study.

Mandating can be accomplished in a variety of ways. However, the desired action is normally facilitated through a process of regulating or by monitoring. But under either method there will be a constraint imposed upon one or more of the following components of local government: (1) the structure (Who runs the program?); (2) the process (How will it work?); or (3) the policy (What are they to do?). For example: the requirement to establish regional planning councils prescribes a structure; the requirement that this agency review planned construction of a given type dictates a process; and the implementing guidelines prescribe policy. It is through this cumulative process that changes in the traditional roles of local government are effectuated.

Historically, the role of local governments in the United States did not change significantly until the 1950s. But during the past three decades most cities have undergone a period of rapid growth - often at the expense of the surrounding county. And with this growth came an increase in problems, both in numbers and complexity. While some of these problems can be attributed to legislative enactments and judicial decrees, many were caused by social, political, and

economic forces that came to the forefront during the fifties and sixties. Together these forces caused a multitude of changes in the role of local governments. A corollary to these changes in roles is that it nurtured the rise in our current concept of intergovernmental relations or shared responsibilities. For included in these changes were new concepts pertaining to methods and procedures for the determination and delivery of services for the local population. It is not surprising that the capacity of local governments to deliver services in an efficient and effective manner became severely taxed due to a lack of expertise to cope with the multitude of new programs and activities. And, as has been pointed out by Reagan (1972), in many instances the capacity of local governments was determined to be nonresponsive to program needs. Predictably, changes in intergovernmental relations were implemented. As a consequence to these imposed changes, local governments began to lose some of the autonomy that had been their mainstay for so many decades.

But Wright (1978) concludes that during the past three decades there was also a significant improvement in professionalism at the local government level. Yet Neiman and Lovell (1982) conclude that mandating by state and federal governments on local governments increased exponentially during this same period - in scope, range, and numbers. The logical question is: Why? If the argument that during the early sixties higher-level officials had valid reasons to question the capabilities of lower level governments, then that mistrust should have been negated by the increase in professionalism at the lower levels of government during the seventies and eighties. The rationale behind the increase in mandating must lie elsewhere.

One must therefore look at programs to which the constraints were applied and ascertain the intended cause and effect relationship.

Traditionally, local governments have been considered the "providers" of public goods and services while "programs" remained the responsibility of state and federal governments. Together they formed "the system." While most observers consider local governments capable of performing those functions normally ascribed to the delivery element of government some officials now feel that local governments are responsible for administering state and federal programs as contrasted to the delivery of services. The system began to take on a different look with the advent of the Great Society and Creative Federalism in the 1960s. During this period many of the activities that had been considered "local" in nature became "national" through the concept of Creative Federalism which envisioned the establishment of national goals and objectives, and the provision of funds necessary to accomplish the tasks involved. And, characteristically, there were "strings" attached.

There are many views as to the cause and justification for the national government to undertake such an endeavor. But it seems that the basic reasoning for the shift of policy to a higher level can be summarized as follows:

1. This period was marked by a rapid growth in city population - probably associated with the post-World War II "baby boom." With this increase in growth came an increase in demands for public goods and services.
2. In many instances the cities were neither prepared or equipped to cope with the added requirements placed upon their personnel

or budgets. And in some instances there was a reluctance on the part of local officials to take the required action due to political or institutional reasons. Consequently, citizen reaction to the lack of satisfaction of their expressed needs resulted in reliance upon the federal government or the judicial system as a means of attaining their goals and objectives. These institutions recognized the extent of the social problems involved in the demands and instituted actions designed to alleviate some of the unrest that was so prevalent.

3. There was a dramatic increase in federal grants and aid to local governments. These added funds were intended to meet the identified needs and to forestall potential problems. Most states and local governments readily accepted the funds even though there were strings attached which gave the federal government the overseer role.

Thus, in those instances where the local government accepted the funding for an activity, that local government had relinquished its role as the provider of public goods and services and defaulted to that of an administrative agency. Were this an isolated case, the problem would be neither significant nor evident. But, in the words of David Walker (1981), the system is "overloaded." By "overload" Walker implies that government, in toto, is trying to accomplish too many things at once. This problem will be discussed further when the implication of mandates on local service delivery is considered in Chapter VI.

This is not to say that the assumption of the overseer role by the federal government was wrong. The need for such action

is well documented as to its justification. It is essentially a question of federalism and is considered in greater detail in Chapter IV where the implications of mandating upon the concepts of federalism are discussed.

Then how prevalent is this condition? Lovell (1981) states that evidence directly related to encroachment is beginning to accumulate which indicates that mandated actions are the single most dominant factor effecting the expenditure of local revenues. But mandating is only one side of the coin in establishing priority expenditure programs. Lack of discretionary taxes is the other side - often joined by limitations on revenue capacity. The ACIR (1978) study found extensive evidence of these conditions. Neiman and Lovell (1981) also indicate that mandates are quickly becoming the most important policy-determinant factor. Thus current literature indicates that significant encroachment has occurred. The determination of the extent of this encroachment is essential to the assessment of its impact on the delivery systems of these local governments.

Federalism

The second area to be researched pertains to the implications of mandated actions on federalism. David Walker (1981) indicates that there are many observers that question whether there exists a functioning federalism today. A more basic question might ask whether a functioning federalism ever existed in the United States. Thomas Dye (1973) argues that the United States has never operated under the "layer cake" concept of Dual Federalism. And before Dye there

were others (such as Alexis de Toqueville) that were of the opinion that the United States was a strong central government with a vast administrative network to carry out directives. Of the modern writers, perhaps Michael Reagan (1972) is correct in his analysis that federalism - in the formal sense - is dead and has been replaced by the more descriptive term of intergovernmental relations. It could be that such a change has occurred in the nature of federalism that most writers and practitioners no longer recognize its characteristics. This all depends upon one's understanding of the term and its usage.

Federalism has two distinct connotations. First, there is the legalistic point of view. This view is embodied in that great mass of literature associated with the Constitution of the United States. At the time of its inception this document was one of the greatest inventions ever conceived as a means of dealing with social issues. But the social problems of that day have long since been replaced by issues that are more dynamic and complex than those for which the Constitution was designed to accommodate. Federalism within the legalistic concept is well suited for a static, multi-community of people that occupy a vast amount of territory, have only minimal intergovernmental activity, and even less emphasis on social needs. It served its purpose well. But through the actions of the United States Supreme Court, legislative enactments, and custom, that concept has lost its import as a workable vehicle for dealing with current problems of population growth and urban complexity. While the legalistic concept of federalism remains valid in many respects, those parts of the Constitution upon which the concept of intergovernmental

relations is based has undergone significant change. Consequently, federalism today is depicted in terms of intergovernmental relations.

But there is a second point of view toward federalism that is equally significant. This is the philosophical view. Within this concept lies the notion that federalism consists of two basic actors: a higher, or ordinate, level of actor; and a lower, or subordinate, level of actor. It is these two features that distinguish a federalistic form of government from a unitary form. This concept of federalism has transferability. In sum, a nation-state is said to exercise a federal system of government when there is a national (the ordinate level) government and a regional (the subordinate level) of government.

Given that, at least philosophically, government in the United States is of the federalistic form, and that such a system should have transferability, is it not logical to say that the same relationship exists between the states and the counties and cities within that state? All of the philosophical requirements are met. The assumption is therefore made that states constitute the higher or ordinate level of government and that counties/cities constitute the lower or subordinate level of government. It is within this context that the implications of mandated actions on federalism are to be evaluated.

There are many concepts of federalism and a more definitive discussion of the subject is provided in Chapter IV. It is not the purpose of this study to argue these concepts. What is important is that some understanding of the role of local government under any

concept of federalism be identified. It is perhaps better to look at respective functions and roles of each level of government than to become tied to definitions. The identification of roles is essential to the study of the implications of mandated actions upon federalism.

In 1964, President Johnson announced his Great Society program and the concept of Creative Federalism. This concept was a clear break from the ideology contained in Dual Federalism, or the "layer cake" model. It also differed from the "marble cake" model of Cooperative Federalism that existed between 1901 and 1964. Beer (1978) summarizes the contrasts between the 1930s and the 1960s as follows:

By comparison with the New Deal model of politics, the influence of parties and pressure groups had declined, while that of the expert and professional had risen. Likewise, in policy there were major departures. In their usual design, the new social programs had certain distinctive traits: they depended on government spending, to provide specific services, delivered by professionally trained persons, to certain categories of consumers, for the sake of designated outcomes. And, not least important, they were to be carried out not directly by the federal government but by agencies of state and local governments. (p. 20)

Thus state and local governments were co-opted as third parties in major national efforts to govern by what Hugh Heclo (1978) has described as "government by remote control." Creative Federalism is envisioned by Press and VerBurg (1983) as a condition wherein the federal government provides the funds and leadership to the states, communities, and even private groups to solve any and all problems while adhering to national guidelines which have been provided. The pattern of intergovernmental relations had clearly shifted; the

system became more centralized, with the national government exercising more power. Federal laws began to state that their purpose was to achieve national goals.

As mentioned earlier, David Walker (1981) has described Creative Federalism as being overloaded. This complex system is considered by Walker as having become an increasingly overburdened and dysfunctional form of federalism wherein intergovernmental relations have become more pervasive, more expansive, less manageable, less effective, and above all less accountable. But that characterization pertains to federalism in the more general context of national-state-local relations. The pertinent question to this study is this: Can this analogy be reduced in scope to that of state and local levels of government only? The following argument to the affirmative is offered.

Given that the essential requirements of a federal system are that there be an ordinate and a subordinate level of government, these conditions are readily satisfied. For, by substitution, the state is an ordinate level of government and the counties and municipalities constitute the subordinate levels. States today perform most of the functions that a national government performs - with exceptions taken for those functions that are specified within the Constitution of the United States. Certainly, the magnitude of effort by some states today far exceeds that of our national government at the time of its origination. And most major counties and cities surpass the efforts of most states of that era. The contention here is that the theoretical components of federalism have applicability when only the relationships between state and local governments are being considered.

Thus Walker's characterization, and that of Michael Reagan or many other federalists, are equally valid when the scope of actors is reduced to the state-local arena.

Thus we can see that there are varying concepts of federalism. It is obvious that we no longer have the "layer cake" model of federalism, if, in fact, it ever existed. This new ideology has seriously altered the traditional concept of federalism. Of great import here is the effect that this change in intergovernmental relations has on the delivery of services to the local population. For Creative Federalism, with its stated national goals and objectives, has usurped the authority of the local government to establish priorities for programs deemed essential by local officials, and replaced them with national programs. This has been accomplished through mandating. Such actions have been applied across the entire spectrum of functions. No longer are certain functions reserved for local governments. Rather, local governments might be considered an administrative arm of the state and federal system.

Democratic Control

The third area to be researched is that of the implication of mandated actions on the processes of democratic control. This is one of the more central questions to be considered. Again, the question pertains to role: Has the role of local government as an autonomous level of government been eroded, and, if so, to what extent? This question of autonomy is highly significant. The debate between Jefferson and Hamilton was never clearly resolved. To this extent the Constitution of the United States is a compromise. The

role of the local government as a clearly autonomous level or partner in the intergovernmental relations arena was never fully established during the Constitutional Convention of 1787. But in 1868 the role of local government was clarified by what is now referred to as Dillon's Rule. Although local governments might very well be "creatures of the state" according to the judicial interpretation by Judge Dillon, they are perceived as the provider of services by the population that it serves. And it is this aspect of the mandated issue that is so pervasive. Who exercises control over the establishment of priorities for programs? Who sets the delivery schedule? And is this control exercised through a democratic process?

An essential element of democratic control is accountability. There are two forms of accountability that must be addressed: (1) fiscal accountability; and (2) political accountability. If we are to enjoy the benefits of democratic control we must insure that those that are elected and trusted to represent us do in fact meet their obligation. If they do not, then it is incumbent upon the electors to hold these officials accountable at the ballot box. But can these objectives be accomplished? Can we hold an elected official accountable when the programs which the official administers were directed upon him by some sanctioned higher authority? Does Creative Federalism allow for effective accountability at the lower level? Can there be accountability under a system where authority and responsibility have been compromised through the institutionalization of mandated actions?

Then where does the control exist? Is it exercised at the ordinate level of government with its policy of setting goals for all problems? Is it at the state level with its implementation of Dillon's Rule? Or, is it exercised through some different but unrecognized system such as that inherent in the intergovernmental relations concept? We know that changes have been imposed on the system. Such change must have an impact upon the democratic control process. Only if we know and understand the nature of the change, and the methods by which control is exercised, can we evaluate the overall impact that mandated actions have on accountability. And accountability, both political and fiscal, must be assessed in terms of role assignments.

Local Service Delivery

The fourth, and final, aspect of the problem to be researched pertains to the implications of mandated actions on local service delivery. Accomplishment of this task requires that transaction costs which are inherent in any delivery system be identified. The objective of the delivery system should be to provide optimum amounts of "goods" or "services" to the intended recipients. This implies that the system must be responsive to the needs and demands of the local population if these goods and services are to have value. Further, it implies an efficient and effective delivery system. But do we have such a system at the present time? Consider the following:

1. Given that state-local-government today is best characterized as Creative Federalism as modified in the above discussion, it is logical to assume that most policies and programs originate

at the state level. Implementation of these programs is normally through a state agency and characteristically will prescribe - mandate - the attainment of specified goals and objectives as well as requirements for recordkeeping and reporting by the local governments that must accomplish the intended activity. The question now becomes one of intent. Is the program envisioned to be a bureaucratic exercise? Who are the intended recipients of the public goods and services? What are the transaction costs involved? And what percent of the funds will the beneficiaries receive in the form of intended public goods and services? Will the intended beneficiaries receive a fair share of the funds, or will it become a welfare program for the benefit of the service providers?

In many instances these transaction costs consume a disproportionate share of the funds designated for a given project due to a lack of knowledge of such costs. Consider the data contained in Table 1-1. In 1970-71 the expenditure per pupil in the public schools of the United States was \$1,982 with 49.2 percent of that amount being spent for teachers' salaries. In 1980-81 the expenditure had increased to \$2,553 per pupil but only 38.7 percent was spent for teachers' salaries. Thus teachers' salaries (per pupil) increased from \$975 to \$984 but "other" costs rose from \$1,007 to \$1,554. This reduction in percentage for teachers' salaries took place despite an increase in teacher-pupil ratios. The increase in "other" shows a striking measure of the cost associated with the rise of bureaucracy over the period. It is interesting to note that this increase in bureaucracy coincided with the increase in non-local funding for

Table 1-1
Current Expenditures Per Pupil in 1980-81 Dollars

Year	Total	Teachers Salaries	Others	Percent for Teacher Salaries
1970-71	\$1,982	\$ 975	\$1,007	49.2
1975-76	2,343	1,044	1,299	44.6
1980-81	2,553	989	1,564	38.7

Note. From West, 1983, p. 3.

Table 1-2
Average Current Expenditures Per Pupil in Public and Private Schools

School Year	Average	Public	Private
1976-77	\$1,353	\$1,544	\$760
1977-78	1,512	1,736	819

Note. From West, 1983, p. 4.

school operations. Now look at the data presented in Table 1-2. The expenditure per pupil in private schools remained at less than half of the public school amount. With knowledge of these transaction costs, officials are in a position to look for alternative means for accomplishing objectives. Without this knowledge they are subject to making a faulty decision.

2. A recent study (Morris, 1980) indicates that only twenty percent of the funds appropriated for the benefit of welfare recipients in New York City actually resulted in the delivery of public goods or services to the intended recipients. The remaining eighty percent went to the "providers" of these goods and services. This illustrates the futility and frustration involved in attempting to attain a national (or major metropolitan) goal unless the transaction costs are recognized and considered. Logic demands that the equity of such systems be questioned. Does the system meet the needs and demands of the local population? Does it provide the intended public goods and services? What is the citizens' perception of such a system?

As the scope and substance of mandates have increased, local expressions of frustration and discontent have mushroomed. The following specific areas have been identified by Neiman and Lovell (1982):

1. The impact of state and federal mandates on the capacity of local governments to participate effectively as partners in the intergovernmental system;
2. Citizens' fears that requirements imposed on localities undermine the accountability of local officials to local populations.

3. Citizens' concern that federal and state mandates are inflexible and insufficiently tailored to reflect local circumstances; and,
4. Citizens' anxiety regarding the decreasing portion of the local jurisdiction's resources that could be characterized as "discretionary" since greater proportions of local resources must be allocated to satisfy mandated procedures and programs.

These and many more questions must be asked and answered where possible. These answers will facilitate analysis of the impact that mandated actions have upon the ability of local governments to be responsive and representative to local populations.

Research Orientation

Methodology

There are many ways to examine the possible relationships between mandated actions and the ability of local governments to provide public goods and services. But from a practical point of view, the use of comparative analysis seems to be the most feasible. The principal reason for this is that we must determine which theory, or concept, of federalism is being applied. Comparative analysis will facilitate such an evaluation.

The geographical base for the study will be a nine county area located in the North Central Florida region. This area consists of rural counties with small to medium-sized cities. There exists within this geographical area a number of governments that possess many traditional characteristics such as those evident in the early 1900s. Some of these local governments have not changed significantly

in the past several decades. Conversely, the region does contain an area that is known for its rapid growth. This contrast is very important to the conduct of the study. First, the relative lack of change will allow the researcher to perform a longitudinal analysis of the methods used by these local governments to determine needs and demands, and the delivery systems used to meet these expectations. Second, the rapid change phenomenon facilitates the evaluation of the effect that rapid growth has on the ability of local governments to determine and deliver service requirements. And last but not least, the variety of governments affords an ideal opportunity to compare like programs under varying conditions and environments. The testing of an appropriate hypothesis among these various configurations of governmental units will reduce the probability that other factors may have influenced the findings.

As stated above, the initial phase of the study will be concentrated in the North Central Florida region. However, the study should have transferability. A similar test, but on a smaller scale, will be conducted in the Lehigh Valley area of Pennsylvania. This locale was selected for two reasons: (1) Pennsylvania is one of the few states that has a Constitutional Amendment against mandating by the state legislature without reimbursement to the local governments (even though the limitation is only partial in nature); and (2) the area has many characteristics similar to the base area but with different environmental conditions. The results of this phase should prove very interesting while providing additional insights into the problem of state mandates. The methodology used for this element of the study will be similar to that used in Florida.

Rationale

The mandate issue, per se, has had limited empirical study. Available literature indicates that the majority of these studies have addressed the question of type and magnitude, with some notable exceptions in the area of fiscal impacts. Earlier it was noted that there seems to be a void when it comes to validating the impact of mandating on the ability of the local governments to provide services in accordance with the expressed needs and demands of the constituencies. According to Neiman and Lovell (1981) this lack of empirical study is equally relevant regarding the impact of mandating on policy dependency. The pertinent question therefore seems to be: Does the substantial and enlarging fiscal and policy dependency matter for the health of local government and for the health of the intergovernmental system?

A healthy intergovernmental system might be defined as one where articulated variety is the norm. The system would be one as we have known it in which various flexible systems of interrelationships are developed without consistent division of responsibility or a dominant central authority but with a capacity for joint action. As a part of this system, the "healthy" local governments must be a partner with power of its own and some reciprocal dependence by the state government on it. In brief, the healthy local government must have the capacity to respond to local problems and to meet the diverse needs of its citizens. It must have sufficient autonomy and capacity to enter into new bargaining and relationships on behalf of its citizens as new possibilities are generated. Whether the enlarged fiscal and policy dependencies are limiting or impacting

in a negative manner upon local government capacity when defined in these terms is the question that must be answered.

It is within this rationale that research will be initiated to test the hypothesis that there is a cause and effect relationship between mandated actions and the ability of local governments to deliver services and to bargain on behalf of the local population.

The study will be very restrictive as to the mandated actions that are to be used. First, only state mandates will be considered. Second, only two policy areas will be used: fiscal constraints and personnel. Each of these areas, however, contain several constraints or imposed limitations that are interrelated. To reiterate, the purpose of the study is to evaluate the impact of mandated actions on the operational capability of local governments; the fact that such mandates create fiscal impacts has been established. What is needed is an assessment of the change caused by these impacts. Limiting the study to state mandates within the two policy areas indicated will facilitate such an analysis. The question then becomes: What changes, if any, have occurred as a result of the mandate, and what has been the effect of this change on the operational capability of the local government? Only after the change has been identified can the impact on operational capability be evaluated.

Summary

This chapter establishes the basis for an examination of the mandate issue. Although there exists considerable empirical research on the quantitative and universal nature of the mandate issue, there

is a lack of study pertaining to the impact of mandating on the operational capability of local governments. This brings to the fore the question of legality versus equity which forms the basis for the study.

An overview of the various facets of the problem that are to be researched was provided. First, the extent of encroachment is to be determined. This phase of the study focuses on traditional roles of local government and the extent to which mandating impacts upon these roles. Secondly, the implications of mandating upon the precepts of federalism is to be assessed. Inasmuch as government in the United States is of the federal form, it is imperative that the study address the change in the concepts of federalism that has occurred as a result of mandating. Thirdly, the study looks at the implication of mandating upon democratic control. Simply stated, it seeks to determine if mandating has altered accountability at the local level of government. Finally, the implication of mandating upon local service delivery capabilities will be examined.

The methodology involves local governments from two regions: Florida and Pennsylvania. This dual approach to the problem facilitates comparative analysis of aggregated data pertaining to two environmentally different regions but based on like variables. The rationale for the study is to determine if local governments are becoming dependent upon the ordinary level of government in the areas of fiscal operations and policymaking. Comparative analysis of the data will assist in determining if mandating has eroded the capacity of local governments to provide needed services and to bargain on behalf of the local population.

CHAPTER II MANDATES AND THE DEFINITIONAL DEBATE

The Problem

It would be difficult to find an issue that sparks more resentment among local officials than that caused by state mandate(s). (ACIR, 1978, p. 1)

Introduction

Mandates are of prime concern to many local government officials, as is indicated by the above quote. Yet there are others that hold an opposing view. One's perception of mandates is colored by the benefits that are accorded to the position held by that person. From a pragmatic point of view, if an official is in a position to implement a given policy or procedure through the imposition of a mandate then that person has reason to favor the use of mandates. Conversely, if the recipient of the mandate foresees some deleterious impact upon the operation of a function for which he or she has responsibility then that person probably looks upon mandates with relative disfavor. Thus, by their very nature, mandates are likely to cause conflict between varying levels of government.

In reality, any discussion of mandates is a discussion of intergovernmental relations and the question of overlapping jurisdictions. Intergovernmental relations is often thought of as a new,

more comprehensive term for federalism. Federalism implies successive levels of government. And this sort of an arrangement encourages conflict due to the lack of a strong, central authority. Therefore, it should not come as any surprise to find that conflict between levels of government has prevailed throughout the history of the United States. It was conflict that caused the demise of the Articles of Confederation. There was conflict evident in the development of the Constitution of the United States. But these are extreme examples of ideological conflict. Conflict as associated with mandated actions is a more recent phenomenon and one which relates to changes in the methods of policy formulation which were precipitated by alteration of traditional concepts of intergovernmental relations. In sum, as was pointed out by Graves (1964), the mandate issue is but the most recent expression of long-standing friction and uneasiness among localities, their respective states, and, occasionally, the federal regime.

Evolution

There are many definitions of the term mandate. However, the distinguishing feature of any mandated action is the imposition of a policy or procedure by a higher level of government on a lower level of government. The most commonly accepted definition is that used by Lovell et al. (1979), which is:

A mandate is any responsibility, action, procedure, or anything else that is imposed by constitutional, legislative, administrative, executive or judicial action as a direct order or that is imposed as a condition of aid.

Direct orders are those impositions from sanctioned authority which

establish requirements of local governments, while conditions-of-aid are impositions that are contingent upon the acceptance of assistance by the recipient local government. Direct order mandates take the following form:

Locality X (will, shall, must, and the like) do Y.

Conditions-of-aid mandates take the following form:

If locality X accepts assistance from Y, then Z must be done. Such a broad definition of mandate can be questioned as to its validity in all instances where a local government is required to accomplish a given policy or procedure. But this does not negate the value of such a definition. The definition should meet the needs of the particular usage intended. Thus, if the purpose is to undertake an inventory (such as that accomplished by Lovell et al.) then the broad definition is a necessity. Likewise, if the intent is to study the impact of mandated actions on the operational capabilities of local governments a broad definition should be used. The study will have validity only if all of the factors which influence an outcome are available for inclusion as variables. While any mandate might have an impact - and this impact might be either positive or negative - it is the cumulative effect that is of concern.

Mandated actions as we know them today have evolved from what Lovell et al. (1979) refer to as the "triple squeeze": (1) greater demands for services by the community; (2) increased pressure from state government and federal government to alter the processes of local government; and (3) lack of resource capacity at the local level which leads to greater dependence on state and federal resources. Given that this assessment is valid, it is easy to see

how a dependency-cycle could be formed. But with the ready availability of these non-local resources came "strings" which imposed certain restrictions as to the usage of the funds by the recipient local government. In many instances these restrictions not only specified the "what" but also the "how." And herein begins the debate over mandates.

Mandated actions began to assume a significant role in intergovernmental relations during the early 1960's. There are two significant factors that have intensified the impact of mandating on local governments. First, it was during this period that federal-local (and sometimes federal-private) relationships increased in quantity and scope. Second, the 1960's mark the beginning of an era where mandated actions began to increase significantly in all aspects of the problem. As the federal government increased its impositions upon the local governments, state governments simultaneously increased their impositions. Not only was there an increase in numbers but there was a corresponding change in the range and scope of the mandates. It is this cumulative effect of a change in operational policy coupled with the dramatic rise in mandated actions that gives cause for concern among so many officials of local government.

This is not to say that all mandates are wrong for there can be many valid reasons for imposing a given policy or procedure. Using Moore and Morin (1980) as a basic text for discussing the advantages for mandating, the following might be cited as valid reasons for mandating:

1. The state may decide through its legislative processes that the activity or service is of sufficient statewide importance that the decision to undertake the endeavor cannot be left to the discretion of the local government (e.g., a policy pertaining to water management in a state such as Florida);
2. Statewide uniformity in the provision of a service may be deemed essential (e.g., voter registration procedures);
3. A mandate may be required in order to promote an economic or social goal (e.g., requirement that all children be inoculated prior to entering school).

Under circumstances such as those cited above, the question is not whether the mandate is good or bad. The question is one of who should bear the cost of implementing the mandate.

The Definitional Challenge

There are four issues involved in the determination of an appropriate definition of the term "mandate." These have been identified by Lovell et al. (1979) as:

1. What governmental entities should be included as mandating agencies (legislative, administrative, executive, judicial)?
2. Should requirements pertaining to procedures as well as requirements pertaining to programs be considered mandates?
3. Should requirements that are imposed as conditions-of-aid be considered as mandates? and,
4. Whether constraints on revenue should be considered as mandates?

Each of the four issues present valid points for debate. But, in

general, local governments tend to accept a definition that includes the four issues while the mandating agency takes exception to one or more of the issues.

To reiterate a point made earlier, the determinant feature of any mandate is the imposition of a requirement or constraint on a lower government. If this statement is accepted, then valid reasons can be provided for including each of the issues within the broad definition of mandates. First, is it logical to assume that only the legislative branch of government has the sanctioned authority to impose a requirement on a local government? Hardly so, but that appears to be the criterion used by the Florida Advisory Council on Intergovernmental Relations to create its Catalogue of State Mandates, BO-7, July 1980. Consider the following quotes from the cited publication: "This report compiles the majority of statutory mandates and thereby presents the most comprehensive picture to date of Florida's mandate activity, even though it excludes agency rules and regulations, executive orders, and judicial decrees" (p. 1). And in a subsequent section:

The narrower definition excludes statutes that implement constitutional mandates, such as the duties and responsibilities of constitutional officers; most 'conditions-of-aid', i.e. those which require matching funds from local sources; in general, any mandate that would readily be deemed of statewide necessity, such as numerous law enforcement functions; and finally, mandates that attempt to achieve uniformity or that are uniformly applied in both public and private sectors, such as workman's compensation and unemployment compensation. (p. 7)

This is not to criticize the publication nor the limited definition utilized. Rather it is to demonstrate the vast differences that occur in the discussion of mandates. The catalogue is intended to

serve as a basis for re-examination of past statutory mandates. While it no doubt meets the intended purpose, it falls short of providing information needed to evaluate the mandate issue.

The second issue, whether to include procedures as mandates, is even more evident. In their comprehensive inventory of mandates, Lovell et al. (1979) found that some 81.8 percent of federal mandates were procedural in nature and state mandates were only slightly lower at 80.8 percent. It is illogical to exclude such a preponderance of mandates from consideration simply because they are "procedural" in nature. Given that 84 percent of these mandates result in a cost to the local jurisdiction their exclusion would seriously distort any evaluation of the mandate issue. This is particularly true as to the workload involved.

The question as to whether conditions-of-aid requirements should be considered as mandates has less quantitative support than does the procedures question. The findings by Lovell et al. (1979) indicate that 82 percent of the federal mandates meet the conditions-of-aid criteria as compared to 18 percent in the direct order category. For state mandates the percentages are reversed with some 95 percent of the state mandates being in the direct order category. Thus, to some extent, it depends on whether one is discussing state mandates or federal mandates. However, statistical data can be misleading. The areas to which conditions-of-aid mandates have been imposed are significant in terms of scope and fiscal impact. Many times the decision pertaining to the acceptance of resources must be made on the cost of not accepting the aid. For example, the Environmental Protection Agency has mandated the standards for waste treatment

facilities. Many jurisdictions cannot meet these standards with existing treatment facilities. Concurrent with the establishment of the waste treatment standards was the authorization of federal funds for construction of waste treatment facilities. However, acceptance of this assistance dictates compliance with a variety of "strings" such as inspection criteria, Davis-Bacon Act wage rates, etc. In this set of circumstances most local governments would have to accept the aid since they are not in a position to meet established EPA criteria without the new facility and cannot finance the facility from available resources. Does this set of circumstances qualify as a mandated action? Logic says that it does. And more significantly, it is perceived by local officials as a mandate.

The final issue pertains to the question as to whether constraints on revenue are to be considered as mandates. Fiscal constraints represent the most troublesome of all mandates. It is one thing to tell a local government to spend their resources to accomplish a given requirement but where does the funding come from that is to finance the operation? Local governments do not have unlimited sources of revenue. The one source that is available, and most used, is the property tax. And this method of revenue generation is the one that is the most vulnerable to voter response. Virtually all states impose some form of constraint or limitation on property taxation. Additionally, this limitation is often coupled with a limitation on expenditures. The ACIR (1978) study cites the comments of a state municipal league executive director as an example of the sentiments of local officials:

Mandates are one side of the coin in establishing priority expenditure programs. Lack of discretionary taxes is the other side . . . often joined by limitations on revenue capacity. Our greatest problem is lack of revenue authority, but don't give us revenue and then spend it through state mandates. Give us the revenue authority for our priorities . . . and reimburse us for your priorities. That's about as clear as I can say it. (p. 50)

Thus it appears that there is a valid basis for concern by local officials.

In sum, there are many good and valid justifications for including, or excluding, a given type of activity within the definition of the term "mandate." Its definition should be that which the researcher requires for fulfillment of intended purposes. It does seem more appropriate to be all inclusive in the definition and to utilize a typology to disaggregate those activities that are of minimal concern.

Typology

The purpose of any typology is to provide categorization of data. There have been many attempts at developing a standard or universal typology for the mandate issue. Such a classification is doubtful at the present due to the relative lack of empirical study of the mandate universe. There are, however, three examples of mandate typologies that warrant discussion. Table 2-1 is the typology that was used by Lovell et al. (1979) for the purpose of developing the mandate inventory. Table 2-2 is the typology developed by Zimmerman for the ACIR (1978) study. At Table 2-3 is a simplified version of the Lovell et al. typology. Although there are obvious differences each serve the needs of the user.

Table 2-1
Mandate Typology

Types of Federal and State Mandate

I. Requirements

A. Programmatic

1. Program
2. Program Quality
3. Program Quantity

B. Procedural

1. Reporting
2. Performance
3. Fiscal
4. Personnel
5. Planning/Evaluation
6. Record-keeping
7. Residual

II. Constraints

- A. Revenue Base
- B. Revenue Rate
- C. Expenditure Limits

Method of Imposition

I. Direct Order

II. Condition of Aid

Application Parameters

I. Vertical

II. Horizontal

Table 2-2
Mandate Typology

1. "Rule of the game mandates," relating to the organization and procedures of local governments, such as:
 - a. the form of government
 - b. the holding of local elections
 - c. the designation of public officers and their responsibilities
 - d. the requirement of "due process" with respect, for example, to the administration of justice and the tax law
 - e. state safeguards designed to protect the public from malfeasance by local public officeholders
 - f. provisions of the criminal justice code that defines crimes and mandates punishment
2. "Spillover" or service mandates, dealing with new programs or enrichment of existing programs, that is:
 - a. education
 - b. health
 - c. welfare
 - d. hospitals
 - e. environment (clean air, clean water, etc)
 - f. transportation (non-local)
3. "Interlocal equity" mandates, requiring localities to act or refrain from acting to avoid injury to or conflict with neighboring jurisdictions. Mandates of this type would include, but not be restricted to, regulatory and supervisory state roles in such areas as:
 - a. local land use regulations
 - b. tax assessment procedures and review
 - c. environmental standards
4. "Loss of local tax base" mandates, where the state removes property or selected items from the local tax base, excluding tax exempt property. Examples would be:
 - a. exemption of business inventories from local property tax base
 - b. exemption of food and medicine from sales tax

Table 2-2--continued

5. "Personnel" mandates, including (a) personnel standards (educational training, licensing and certification) of those local employees who carry out state-aided programs; (b) mandates affecting personnel benefits where the state sets salary or wage levels, hours of employment, or working conditions; and (c) mandates affecting retirement benefits.

Note. From Advisory Commission on Intergovernmental Relations, 1978, pp. 5-6.

Table 2-3
Simplified Mandate Typology

Type of Mandate	Example
I. Revenue/Expenditure Limits	
A. general	overall spending limit
B. specific revenue	limit of user charges
C. specific expenditure	limit on retirement pay
II. Min output quantity requirements	operation of animal shelter
III. Min output quality requirements	environmental controls
IV. Procedural requirements	
A. general	reporting procedures
B. specific	guideline for disaster warnings

Note. From Lovell et al., 1979, p. 87.

The typology designed and utilized by Lovell et al. (1979) (Table 2-1) provides an ideal arrangement for the observer to focus on any given dimension from policy analysis to research. It is especially useful for broad spectrum considerations since it readily facilitates sampling - an essential requirement in many instances. To quote Lovell et al.: "We could find no mandate among the nearly 5,000 inventories, that did not fit readily into the typology" (p. 42).

The ACIR typology at Table 2-2 contains some interesting concepts. It attempts to organize around the impact or output dimension as contrasted to a functional or type classification. Further development of this concept should prove highly advantageous to future study of the mandate universe. This typology was used by Zimmerman (1976) to study state-local relationships and by MacManus (1981) to evaluate the impact of mandating on the financial condition of municipalities.

But neither of the typologies presented thus far meets all situations. At times there is a need for a more simplified typology such as that at Table 2-3. Such a typology should include only those features that contribute to the generation of useful data. A key feature of this type of typology is the use of valid assumptions which allows the researcher to aggregate certain aspects of the problem and to treat this aggregate as a single variable. This technique was used by Lovell et al. (1979) when working with the analytical model and was based on two assumptions: (1) budget impacts are not sensitive to the administrative level of local government charged with carrying out the mandate; and (2) certain

mandate types from the typology presented as Table 2-1 can be portrayed just as well as mixed cases or modified special cases of those in the simplified typology. Specifically, in this instance, the simplified mandate typology was used by Lovell et al. since it "accords with the most abstract view of the fiscal dimension of government; an institution which collects revenues and spends them to provide local public goods in response to the collective preferences of its constituents" (p. 88).

In sum, the format of the typology does not appear to be as significant as the purpose of the typology. The typology at Table 2-1 is ideally suited for identification and categorization of data. Table 2-2 facilitates the measurement of output or impact. And Table 2-3 is designed to generate specific information.

State Versus Local Concepts

Scope

As stated earlier, it would be difficult to find an issue that sparks more resentment among local officials than that caused by state mandates. While virtually all observers of state-local relations agree that state governments must be allowed wide latitude on the mandating front, there is sharp disagreement on how far states should move into certain controverted areas. The real question becomes: can state mandates be sufficiently differentiated between "appropriate" and "inappropriate" state directives?

Local authorities are especially bitter over the "end run play"--actions by which local employees representatives obtain from the

state legislature more generous personnel benefits on a mandated basis than they could obtain through negotiation with locally elected officials. But mandating goes far beyond personnel benefits. It covers the gamut of local government activities ranging from educational programs (where state interest is clearly strong) to such items as parks and recreation programs (where local policies would be expected to be controlling). While mandates are used to achieve more uniform service levels, and more professional standards for employees and other legitimate statewide objectives, the state legislature can also become the hunting ground where narrowly focused special interest groups seek to capture for themselves or their constituencies a larger slice of the local expenditures. Thus the frequent imposition of special interest demands from "on high" necessitates a constant reordering of local priorities. For these reasons, the local governments resentment to state mandates often goes far beyond the fiscal concern over added costs. Stated simply, state mandates substitute state priorities for local priorities.

Several justifications have been offered in defense of mandates: the need to assure minimum statewide service levels or a more uniform level of service throughout the state; to develop professional standards for employees; or to implement state social or economic policy objectives. There can be little disagreement as to the desirability for these actions. It must also be emphasized that there is little or no controversy over many mandates, particularly those relating to the organization and procedures of local governments. Such mandates are justified to prescribe the form of local government, the holding of local elections, and the designation of public officers

and their responsibilities. Due process and "safeguard type" mandates are necessary to ensure, for example, the equitable administration of justice and the tax laws and to protect the public from malfeasance. State mandates of a supervisory nature are also necessary to require localities to act or to refrain from acting so as to avoid injury to, or conflict with, neighboring jurisdictions.

It must also be acknowledged that expenditure mandates can provide local officials with a convenient scapegoat when it becomes necessary to increase taxes. State legislators can be blamed for the unpopular action even though in some cases local officials may have urged state legislators to enact the proposed mandate. They have been used frequently in recent years both because state legislators are reluctant to raise state taxes in response to demands of the public, and due to the fact that the courts are demonstrating an increasing willingness to order improvements in service standards. The legislature consequently is tempted to mandate local governments to provide the service increase and let local officials figure out how to pay for it.

Use as a Policy Device

State mandates are most solidly grounded when there is a clear statewide policy objective to be achieved. This criterion, designed to include what is commonly alluded to as "benefit spillovers" in the literature, however, is difficult to measure and apply operationally. The problem of sorting out functions or functional components where state mandates might be more readily defended is further complicated by the fact that there are few areas that can be considered

to be wholly state or wholly local in interest. The differences then are differences of degree - not differences of kind - and such differences are not well articulated by benefit spillover calibrations.

If benefit spillovers are not a sufficiently precise measuring rod for gauging the continuum of functions from highly state to highly local interest, it provides at least one criterion that has been used to assign functional responsibility between governmental levels. The ACIR (1979) study concludes that functions such as education, highways, welfare, health-hospitals, and environmental concerns are "intergovernmental" in nature while those such as fire, police and trash removal are more local as contrasted to a state concern. This division, however, refers to broad functional areas and not by implication to each program area or activity within such functions. It is at the more micro or subprogram level then that the spillover effects are difficult to operationalize. Although benefit spillovers might be a rough measure, they are at least a necessary measure that must suffice until better means are available to distinguish statewide matters from purely local ones.

The "Relativist" View

The "relativist" point of view holds that mandates are a part of state-local relations. This point of view contends that mandates do not stand alone and are best evaluated in the context of the total state-local legal and fiscal framework. While benefit spillover considerations are indeed important there are other factors, fiscal and political, that are essential to the determination of the

appropriateness of any given state mandate. Some of these factors are: application of "home rule" concepts; state-aid; accessibility of local governments to other own-source revenues; and the existing state-local fiscal system. Together these factors tend to make mandating a highly complex area that is not conducive to policymaking. Accompanying, but not synonymous with, the relativist viewpoint is the philosophical belief that the state government has the right and the responsibility, at least in certain areas, to set local priorities so as to achieve statewide objectives. In general, the values of home rule and local initiative are downplayed; the viewpoint that local governments are the "creatures" of the state is emphasized.

The "Purist" View

A second point of view takes a harder stance on the need to establish criteria to evaluate the appropriateness of state mandates. Relativism, while suggesting various additional factors, is nonetheless objected to because the very multiplicity of factors offered can easily lead to an indeterminate result - albeit one reached by considering various objective measures of state-local relations. If various factors are to be considered, which are the most important? How are they to be determined and weighted in the decision-making process?

The crux of this more "purist" point of view is that a truly statewide concern must be clearly established before the state has a right to impose its mandates on local governments.

Buttressing this position, though again not necessarily synonymous with it, is the belief that cities in general and certain

urban counties are not simply the administrative arms of the state - that these local jurisdictions should be allowed to exercise a substantial degree of independence. The upward drift of decisionmaking authority, from local government to the state, is felt to be fostered by mandates that are ill-considered and indiscriminate in scope, with the result that locally determined priorities are substantially constrained.

Perhaps the strongest argument in support of the purist view is that of fiscal accountability - that those that want to mandate new programs should also accept the responsibility of meeting at least a part of the added costs. In short, there should be a nexus between the pleasure of new expenditures and the pain of additional taxes.

Once a statewide policy objective is determined, the question of state reimbursement for mandated costs comes to the fore. On this question, the differences between the two schools of thought are somewhat less sharp. The benefit spillover criterion, applicable mainly to such functions as education, highways and health mandates, suggest that such mandates be jointly financed, partly by the state and partly by local governments. Spillover considerations in the main, then, help resolve the financial responsibility question - that is, state reimbursement - for the purists. This, plus additional fiscal and political considerations, leads to a justification of partial state financing for the relativists. Both schools agree, however, that mandates affecting services, either new programs or enhancement of existing services, should not be financed wholly by local governments, as is presently the case in virtually all states.

By way of an analogy, state mandates affecting program service levels; education, health, highways, etc., can be considered as an alternative to grants-in-aid. If a new program or an enrichment of an existing program is the state objective, the grant device recognizes the state financing role; the mandate ignores it.

To be sure, separating out the state from the local interest in a given program or subprogram area is difficult and is unlikely to yield a precise delineation of the statewide interest (to be financed by the state) from the benefits to be retained locally. Yet, while the division of financial responsibility for state mandates may be no more than rough justice, the principle of partial state financing, say 50 percent, would work in the direction of removing fiscal inequities that stem from the present pattern of mandating practice that is generally characterized by no state reimbursement.

Summary

This chapter highlights the evolution of the mandating process. Due to its conflictual nature, mandating readily became an item of debate. An insight into the definitional challenge was provided. It is evident from the arguments presented that no clear definition or understanding of the concept of mandating prevails. Rather, the opinion held by a given actor is dependent upon the role played by that actor. While the practitioner, generally, looks with disfavor upon the idea of mandating, there exists a large group of authors and officials that are of the opinion that mandating is essential, at least in certain specified areas.

A key element in the study of mandating pertains to the use of grants and conditions-of-aid by the ordinate level of government. Such sources of revenue normally contain some form of constraint on the usage of these funds by the recipient local government. It was pointed out that in some instances a local jurisdiction might be forced into accepting these constraints, not through choice but as an only means of complying with another mandate.

The typology utilized to accumulate and aggregate information is of utmost importance. The choice of a given typology is dependent upon the intended purpose of the research.

Finally, the arguments of state and local officials were presented. This was demonstrated through the "Relativist" and the "Purist points of view.

CHAPTER III ENCROACHMENT AND ITS IMPLICATIONS

The National-Level Data

Introduction

The previous chapters have established a rationale for studying the mandate issue. The question now becomes one of determining the extent to which mandating has encroached upon traditional roles of local government. A good idea of this extent can be obtained by considering the available empirical data pertaining to the magnitude and nature of mandates. This should provide a reliable measure of the degree of encroachment that has occurred. But such evaluation must be conditioned by definitional and usage terminology; specifically, what is meant by encroachment and what definitions were used in aggregating the data that is to be evaluated.

Three basic sets of data are to be evaluated. Each set of data is based on a different definition of the term "mandate," and, indeed, some variation as to its usage. First, the mandate inventory created by Lovell et al. (1979) will be used to provide an idea of the universal nature of the problem. This listing is based on a rather broad definition of mandate. Second, the report prepared by the Advisory Commission on Intergovernmental Relations (ACIR) (1978) will be utilized to focus the study toward mandates at the state

level. This report focuses on some seventy-seven specific program areas where state-initiated mandates have been imposed. Finally, the Catalogue of State Mandates published by the Florida Advisory Council on Intergovernmental Relations in 1980 provides the basis for localizing the study. This catalogue is very restrictive in its application of the term since it includes legislative mandates only. This process of multi-level evaluation will provide a more complete view of the quantity, range, and scope of the mandate issue.

But it is the encroachment aspect of mandating that begs to be answered. Encroachment is defined as any action that is imposed by a higher level of government on a lower level of government where such action deletes, erodes, or otherwise alters a traditional role of the subordinate level of government. While a mandate is defined as any action that imposes a requirement or constraint, encroachment measures the impact of that action upon a traditional role of the recipient government. The alteration of this traditional role cannot but influence in some manner the operational capability of that local government.

Encroachment can occur in a variety of ways. First, as was indicated earlier, government can prohibit. This is a recognized, sanctioned authority of higher levels of government. But once a system of government is established and allowed to function for a sufficient period of time it must be assumed that proper roles are in place. If the ordinary level of government prohibits some activity that had been sanctioned, then that prohibitive action constitutes encroachment within the terminology used above. Since by definition there is a change or alteration in a traditional role each time that encroachment

occurs, then there is by necessity a change in the operational capability of the recipient local government. Fortunately, at least in our society, there is a minimum of this form of encroachment. But there is a second form of encroachment that is very prevalent as pertains to intergovernmental relations in the United States. And that form of encroachment is called mandating. It is this aspect of encroachment that is of such concern to officials of local government. Likewise, there is a need to know its magnitude, and its implications upon the operational capability of local governments.

The Data Base

Mandates are characterized in a variety of ways. The most common typology, that contained at Table 2-1, used: type; whether the imposition is vertical or horizontal in nature; its origin; whether the mandate is a direct order or a condition of aid; and the function to which the mandate is applied. Table 3-1 presents the results of the Lovell et al. (1979) study in accordance with this typology. Despite the numerical massiveness of the data that is depicted, the report is not all-inclusive. The authors are quick to point out that:

1. Court mandates are not included directly but through inference.
2. Special districts were excluded and therefore most education mandates are not included.
3. The sources of mandates were not always codified by the states, thus making it difficult to determine and report mandating activity.
4. The inventory contains only: federal data; data from five

states as developed from a sampling of one county from each of these states; and one city within each of these counties (p. 54-55).

Thus the report can hardly be considered a total inventory even though it is an exhaustive one. However, it is adequate for the purpose of establishing the extent of mandating activity and identification of potential encroachment aspects of the mandate issue.

The extent of the mandate issue is depicted in Table 3-1. There are some 1260 federal mandates identified in the report. By comparison, there are some 3415 mandates reported for the five states included in the survey. Thus it can be stated that local governments are subject to 1260 federal mandates and an average of some 660 state mandates for a total of over 1900 mandates. The portion of these mandates that represent encroachment within any given locality is unknown; stated simply, there are too many factors to be considered. For example, not all programs are pertinent to all localities. And some of those localities to which the program mandate would apply have opted not to participate in the program. Although approximately eighty percent of these mandates fall within the "procedural" category, this should not be used to belittle the impact caused by mandates in this category. For example, the requirement that all construction funded through federal agencies comply with Office of Safety and Health Administration guidelines is a procedural mandate. Yet the implementation of this requirement could very easily require the creation of a new department within the municipal work force, contingent upon the amount of construction that is to be accomplished. Can it be denied that this is an encroachment upon the traditional

Table 3-1

Distribution of Federal and State Mandates by Type, Vertical/Horizontal, Origin,
Direct Orders/Conditions of Aid, and Function

<u>TYPE</u>	<u>Federal</u>		<u>State</u>	
	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>
Program	9.9	125	5.4	183
" Quality	5.6	71	4.0	137
" Quantity	1.0	12	1.1	36
Procedural				
Reporting	12.5	158	15.8	539
Performance	36.7	463	38.7	1322
Fiscal	12.5	157	11.6	397
Personnel	9.5	120	8.6	297
Planning and Evaluation	6.1	77	2.6	90
Record Keeping	4.5	57	3.5	118
Constraint				
Base	0.3	1	3.0	101
Rate	0.1	1	4.0	138
Expenditure Caps	<u>1.0</u>	<u>13</u>	<u>1.5</u>	<u>52</u>
TOTAL	100.0	1260	100.0	3415
<u>VERTICAL/HORIZONTAL</u>				
Vertical	76.3	961	91.2	3114
Horizontal	<u>23.7</u>	<u>299</u>	<u>8.8</u>	<u>300</u>
TOTAL	100.0	1260	100.0	3414
<u>ORIGIN</u>				
Law	3.3	41	80.0	2739
Executive Order	1.1	14	.1	4
Administrative Regulation	<u>95.6</u>	<u>1205</u>	<u>18.8</u>	<u>641</u>
TOTAL	100.0	1260	98.9	3384
<u>DIRECT ORDER, CONDITION OF AID</u>				
Direct Orders	18.0	223	95.7	3268
Conditions of Aid	<u>82.0</u>	<u>1036</u>	<u>4.3</u>	<u>147</u>
TOTAL	100.0	1259	100.0	3415
<u>FUNCTION</u>				
Agriculture	.1	1	2.7	92
Community Development	28.2	355	10.9	373
Community Sciences	3.6	45	1.2	42
Education	6.3	80	4.8	165
Environment	7.9	100	5.8	198

Table 3-1--continued

General Government	16.2	204	34.4	1176
Health	26.2	330	12.3	419
Public Assistance	1.4	18	3.1	107
Public Protection	2.6	33	11.2	383
Recreation/Culture	0.6	17	1.8	60
Transportation	3.0	38	4.6	157
General Regulation	3.9	13	7.1	243
TOTAL	100.0	1260	100.0	3415

Note. From Lovell et al., 1979, p. 67.

role of the local government? Hardly. This is not to say that the requirement is bad or wrong. It merely points out that there is encroachment involved and that a potential fiscal impact is created. Both of these problems must be dealt with by the local government.

Second, there is the question of horizontal versus vertical mandates. Historically, most mandates were of the vertical type - meaning that the imposed requirement or constraint was limited to a given program or activity. Included in this category are mandates such as those pertaining to municipal wastewater treatment facilities funded under the auspices of the Environmental Protection Agency. Contrasted to this are the horizontal or cross-cutting mandates. These mandates have applicability across a broad, if not universal, spectrum. A typical example of this type of mandate would be the requirement that all labor used in construction contracts which are funded through federal agencies be compensated in accordance with the conditions specified by the Davis-Bacon Act. The significant item in this particular set of data is the ratio of horizontal to vertical mandates. At the federal level the ratio is one horizontal mandate to three vertical mandates. Yet at the state level the ratio is only one horizontal to each nine vertical mandates. This provides an insight into the nature of mandates at the two mandating levels; the federal level uses the horizontal type of mandate much more extensively than does the state level of government. But, as will be noted later, it is these horizontal mandates that are the more pervasive while increasing at a much faster rate.

Table 3-2

State Mandates, by Individual States: By Type, Vertical-Horizontal Distinctions, Origin, Direct Order and Conditions of Aid Distinctions, and Functional Category

	California (N=1479)	New Jersey (N=534)	N.Carolina (N=259)	Washington (N=487)	Wisconsin (N=654)
<u>Mandate Type</u>	%	%	%	%	%
Programmatic	10.9	3.3	23.2	9.3	10.8
Program	3.9	2.2	19.7	6.2	4.9
Program Quality	5.3	1.1	2.7	2.9	4.7
Program Quantity	1.7	0.0	.8	.2	1.2
Procedural	86.0	83.6	59.8	73.4	81.6
Reporting	22.4	2.2	14.7	10.7	16.3
Performance	42.9	46.6	22.4	27.7	37.6
Fiscal	9.4	13.9	10.0	13.6	14.1
Personnel	4.9	18.7	8.9	12.7	5.8
Plann./Eval.	2.2	1.1	1.5	6.4	2.4
Record Keeping	4.2	1.1	2.3	2.3	5.4
Revenue Constraint					
Base	3.1	12.7	17.0	17.3	7.7
Rate	1.2	4.5	.8	7.0	3.6
Expenditure Caps.	.5	2.2	1.5	2.9	2.1
Total	100.0	100.0	100.0	100.0	100.0
<u>Vertical/Horizontal</u>					
Vertical	94.0	91.8	98.8	91.4	81.3
Horizontal	6.0	8.2	1.2	8.6	18.7
Total	100.0	100.0	100.0	100.0	100.0
<u>Origin</u>					
Law	72.6	98.4	99.2	79.3	79.2
Executive Order	--	--	--	--	0.6
Adm. Reg.	27.4	1.6	0.8	20.7	20.2
Total	100.0	100.0	100.0	100.0	100.0
<u>Direct Orders and Conditions of Aid</u>					
Conditions of Aid	1.7	1.3	3.9	16.0	3.4
Direct Orders	98.3	98.7	96.1	84.0	96.6
Total	100.0	100.0	100.0	100.0	100.0
<u>Function</u>					
Agriculture	5.0	0.6	1.9	1.0	0.8
Community Development	6.2	21.0	11.6	19.9	6.6
Community Service	0.5	1.1	4.2	--	2.6
Education	8.7	0.6	0.4	--	4.9
Environment	6.2	2.4	2.3	9.0	6.6
Gen.Gov't.	31.0	42.5	39.8	37.2	31.5

Table 3-2--continued

Health	18.7	4.1	15.8	11.3	3.7
Public Assist.	4.6	1.1	8.9	--	1.5
Public Protection	11.3	10.1	9.3	11.7	12.4
Rec./Culture	.9	2.6	0.4	2.3	2.9
Transportation	5.1	0.7	3.9	1.2	9.5
Gen. Regs.	1.8	13.1	1.5	6.4	17.1
Other	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total	100.0	100.0	100.0	100.0	100.0

Note. From Lovell et al., 1979, p. 69.

Implications

Analysis of Table 3-1 indicates that there is a high degree of similarity in the distributional pattern of mandates by type when comparing federal and state quantities and percentages respectively. Analysis of the vertical/horizontal data shows relative similarities although there is a significant difference in the ratios of vertical to horizontal mandates at the two levels. But analysis of the origin data reveals an almost total reversal between the two levels. Some 95.6 percent of the federal mandates are promulgated through the usage of administrative regulations while 80 percent of the state mandates are imposed through the legislative process. (Table 3-2 indicates that the values for each state vary between 72.6 percent for California and 99.2 for North Carolina). As to whether the particular mandate was a direct order or a condition-of-aid, the aggregated data should come as no big surprise. It is logical to assume that most federal mandates are in the condition-of-aid category due to the massive increase in federal grant programs, and that most state mandates would fall into the direct order category, following the notion of Dillon's Rule. As to the functional areas to which mandates are applied, there is a high degree of similarity between percentage figures for the federally mandated areas and the state mandated areas.

In sum, to this point, it is sufficient to state that Table 3-1 presents conclusive evidence as to the quantity, scope, and range of mandates. But the data for each of the states should be analyzed to determine if there are significant differences in the

data accumulated for each state included in the inventory.

Information for this analysis is contained in Table 3-2.

The results of the surveys for each state included in the survey indicate that there is considerable variation among the separate states as pertains to mandating activity. California leads in mandating activity with 1379 mandates being reported. This compares with the low of only 259 for North Carolina. However, these data are deceiving due to the survey methods used in the separate states. The significant aspect of Table 3-2 is its relative consistency when comparing individual states by type of variable (the left column). Although there is a significant difference in quantity of mandating activity, the relationships held despite changes in wealth, region, size and a host of other factors pertinent to each state.

It must be pointed out that the data was gathered in 1977. As such, a logical question would be: What are the trends for the mandating activity? Lovell asked that question and the resultant data is presented at Table 3-3.

If the argument presented in the previous chapter pertaining to the cause and effect relationship between the rise in growth of intergovernmental relations and the increase in mandating activity is valid, then an indication of this increase should be found in the data at Table 3-3. It is clearly evident from analysis of the data contained in the table that mandating has been on the increase for the two decades preceding the study. Most observers would agree that this approximates the period

Table 3-3

Number of Federal and State Mandates by Estimated Year of Imposition, by Direct Orders and Conditions of Aid (DO and COA)

<u>Years</u>	<u>Federal</u>		<u>State</u>	
	<u>COA</u>	<u>DO</u>	<u>COA</u>	<u>DO</u>
1941-1945	0	0	1	77
1946-1950	0	8	0	276
1951-1955	2	0	0	99
1956-1960	2	2	1	79
1961-1965	24	5	2	250
1966-1970	92	43	38	365
1971-1975	559	109	53	1040
1976-1978	354	57	30	625

Note. From Lovell et al., 1979, p. 71.

Table 3-4

Number of Federal Mandates, by Type,
in Each Estimated Year of Imposition

	Estimated Year of Imposition								Total
	1941- 1945	1946- 1950	1951- 1955	1956- 1960	1961- 1965	1966- 1970	1971- 1975	1976- 1978	1941- 1978
PROGRAMMATIC									
Program	0	0	0	0	6	24	57	37	124
Program Quality	0	0	0	0	2	17	34	17	70
Program Quant.	0	0	0	0	0	1	1	10	12
PROCEDURAL									
Reporting	0	6	0	0	7	10	81	54	158
Performance	4	3	1	1	7	40	273	134	463
Fiscal	1	0	0	3	3	21	82	55	165
Personnel	3	0	1	0	4	9	64	39	120
Planning/Eval.	4	0	0	0	1	7	38	27	77
Record/Keeping	1	0	0	0	1	7	33	15	57
REVENUE CONSTRAINT									
Base Constraint	0	0	0	0	0	0	2	2	4
Rate Constraint	0	0	0	0	0	0	0	1	1
Expenditure Caps	0	0	0	0	0	0	1	11	2
ALL VERTICAL	13	9	2	4	22	114	473	330	954
ALL HORIZONTAL	0	0	0	0	9	22	187	83	301

Note. From Lovell et al., 1979, p. 71.

during which the increase in growth of intergovernmental relations occurred. It also correlates very nicely to the period which saw a change to the concept of creative federalism as advocated by President Johnson and his Great Society programs. Table 3-4 depicts the federal statistics for this period by mandate type and it appears that all types of federal mandates increased at approximately the same rate. Thus it seems that there is a positive relationship between the three aspects of change: the advent of creative federalism; the rise in the growth of intergovernmental relations; and the increase in mandating activity. But the question of which action was the precipitating force needs further study and evaluation.

The magnitude of the mandate issue cannot be doubted. If a local government is subjected to some 1900 actions that impose a requirement or constraint upon its functions, then that government must of necessity have a reduced capacity to deliver required goods and services. In sum, given that these conditions do exist, there is encroachment upon the traditional role of the local government. But the implications of this encroachment on the operational capability of the service delivery unit is yet to be determined.

The State-Level Data

The Data Base

Thus far the thrust of this chapter has been toward the broad, overall picture of the mandate issue - what Lovell (1979) has referred to as the mandate universe. The terrain of that universe shows signs of conflict much the same as the real universe. Only this time the conflict has been caused by the imposition of

requirements or constraints upon subordinate levels of government by an ordinate level of government. We have termed this process "mandating" and the conflict which it creates we refer to as the "mandate issue." However, the universe is too broad to facilitate detailed analysis of the implications of these mandated actions. It is therefore necessary to place parameters around a segment of the issue and devote our energy to this selected area.

It was indicated above that there were some 1260 mandates identified at the federal level. It was further indicated that the average number of mandates for the five states included in the Lovell et al. (1979) study approximates 660, or about one-third of the total. But even this quantity would be unwieldy unless some massive effort were applied. Realizing the complexity and massive-ness of such a task, the ACIR (1978) study opted to analyze only 77 specific program areas.

The ACIR (1978) report is primarily concerned with state-mandated costs on local government. It is significant to note that the final report for the study recognized that mandates can effect either the revenue or expenditure side of local budgets. Given that mandates impose either a requirement or a constraint, it is logical to assume that a requirement mandate causes an expenditure of resources while a constraint would limit the revenue generating capacity of the local government. Within this context, Lovell and Tobin (1981) conclude that some 84 percent of the federal mandates and about 90 percent of the state-initiated mandates cause some expenditure of resource by the recipient local government. However, the remaining 10 percent of state-initiated mandates might have the

most effect upon the operational capability of local governments since it is these mandates that limit or constrain the resources to finance the mandated activities. Likewise, they hamper the capacity of local governments to properly fund existing programs. This often results in displacement wherein mandated activities are conducted at the expense of non-mandated ones. Thus, there is a compounding factor that must be considered. But where either of these occur, whether singly or in combination, local discretion is eroded through encroachment upon the traditional role of the local government.

The ACIR (1978) study looked at many aspects of state-initiated mandating. The first effort of that study was to determine whether state mandating has any relationship with selected characteristics. Table 3-5 depicts the findings of such an analysis. There are only two significant findings: the relatively small number of mandates in the South; and the strong tendency for locally dominated state fiscal systems (where local governments contribute more than 50 percent of state-local tax revenue) to have more mandates. On a regional basis, only 37 percent of the functional components were mandated in the South. In Table 3-6 the education functional areas are removed from the statistics and the figure is even more striking in that only 33 percent of the functional components are mandated in the South. Thus the assumption can be made that local government is more traditionally oriented in the South, or that efforts to resist mandating are more prevalent in that region. That assumption needs to be studied in order to establish the validity of the statement. In Table 3-7 is the summary data of the state mandating practice according to the specific program areas.

Table 3-5

State Mandates Classified by Region
 State Dominance of the Fiscal System, Population Change,
 And Restrictions on Length of Legislative Session,
 1976

Region	Functional Components <u>Mandated</u>		Functional Components <u>Not Mandated</u>		<u>Total</u>	
	Number	Percent	Number	Percent	Number	Percent
Northeast	357	59	248	41	605	100
Midwest	451	54	392	47	843	100
South	424	37	713	63	1137	100
West	<u>534</u>	<u>55</u>	<u>442</u>	<u>45</u>	<u>976</u>	<u>100</u>
Total	1762	50	1799	50	3561	100
State Dominance of the Fiscal System						
Local Dominance	414	61	261	39	675	100
Strong State Role	994	51	968	49	1962	100
State Dominance	<u>358</u>	<u>39</u>	<u>566</u>	<u>61</u>	<u>924</u>	<u>100</u>
Total	1762	50	1799	50	3561	100
Population Changes 1960-70						
Decline to 10% Increase	747	47	828	53	1575	100
10% to 20% Increase	581	50	573	50	1154	100
20% or Greater Increase	<u>438</u>	<u>53</u>	<u>394</u>	<u>47</u>	<u>832</u>	<u>100</u>
Total	1762	50	1799	50	3561	100
Legislative Sessions						
Annual Unlimited	696	54	599	46	1295	100
Annual Limited	715	45	876	55	1591	100
Biennial	<u>355</u>	<u>53</u>	<u>320</u>	<u>47</u>	<u>675</u>	<u>100</u>
Total	1762	50	1799	50	3561	100

Note. From Advisory Commission on Intergovernmental Relations, 1978, p. 40.

Table 3-6

State Mandates in 64 Noneducation Functional Areas
 Classified by Region, State Dominance of the Fiscal System
 Population Change, and Restrictions on Length of Legislative Session,
 1976

Region	Functional Components <u>Mandated</u>		Functional Components <u>Not Mandated</u>		Total	
	Number	Percent	Number	Percent	Number	Percent
Northeast	281	57	214	43	495	100
Midwest	367	51	347	49	714	100
South	320	33	641	67	961	100
West	<u>437</u>	<u>53</u>	<u>386</u>	<u>47</u>	<u>823</u>	<u>100</u>
Total	1401	47	1592	53	2993	100
 State Dominance of the Fiscal System						
Local Dominance	339	60	227	40	566	100
Strong State Role	795	48	858	52	1653	100
State Dominance	<u>271</u>	<u>35</u>	<u>503</u>	<u>65</u>	<u>774</u>	<u>100</u>
Total	1401	47	1592	53	2993	100
 Population Changes 1960-70						
Decline to 10% Increase	608	46	725	54	1333	100
10% to 20% Increase	457	47	508	53	965	100
20% or Greater Increase	<u>340</u>	<u>49</u>	<u>355</u>	<u>51</u>	<u>695</u>	<u>100</u>
Total	1401	47	1592	53	2993	100
 Legislative Sessions						
Annual Unlimited	554	51	535	49	1089	100
Annual Limited	556	42	782	58	1338	100
Biennial	<u>295</u>	<u>52</u>	<u>271</u>	<u>48</u>	<u>566</u>	<u>100</u>
Total	1401	47	1592	53	2993	100

Note. From Advisory Commission on Intergovernmental Relations, 1978, p. 41.

Table 3-7

Comparison of State Mandating Practice in 77 Specific Program Areas

Program Area (Number of mandates in parens)	US Avg	Southeast Avg	FL	Mideast Avg	PA
Total Mandates Reported	35	27	43	37	41
Local Employees Retirement and Working Conditions (15)	7	5	5	6	5
Police (14)	7	5	5	6	5
Fire (14)	6	4	7	6	9
Environmental Protection (8)	4	3	8	4	7
Social Services (6)	1	1	1	1	0
Miscellaneous (7)	3	2	3	2	2
No Mandate Reported	36	43	33	38	35
Number of Mandates with no Response	6	7	1	1	1

Note. From Advisory Commission on Intergovernmental Relations, 1978, p. 44.

The ACIR (1978) study provides some interesting sidelights to the mandating practice. For example:

1. Most commonly mandated function;
 - a. Solid waste disposal - 45 states.
 - b. Special education programs - 45 states.
 - c. Workman's compensation - 42 states.
 - d. Retirement system - 35 states.
2. Most "questionable" mandate;
 - a. Public library hours - two states.
 - b. Park and recreational programs - three states.
 - c. Local payment for regional transit - three states.
3. States with most mandates;
 - a. New York (60 of 77 listed).
 - b. California (52 of 77 listed).
 - c. Minnesota (51 of 77 listed).
 - d. Wisconsin (50 of 77 listed).
4. States with least number of mandates;
 - a. Generally, the southern states.
 - b. Alabama (11).
 - c. West Virginia (8).
5. Mandates deemed most inappropriate;
 - a. Compulsory binding arbitration (other than police, fire and educational).
 - b. Mandated salary and wage levels (other than fire, police and education).

Thus it is clear that the mandate issue is comprehensive. There do not appear to be many areas that have escaped. But there are some

areas where the logic for mandating is unclear. What is clear is that significant encroachment has occurred as a result of mandating. The extent of this encroachment can be judged from the sentiments expressed by respondents to a second set of questions that were included in the ACIR study.

Implications

The ACIR (1978) study probed the attitudes of respondents as to the appropriateness of specific mandates under varying conditions of state financial assistance. For each of the 77 functional components included, respondents were asked to choose one of six designations:

1. appropriate mandate, without reimbursement;
2. appropriate mandate, partial reimbursement;
3. appropriate mandate, full reimbursement;
4. inappropriate mandate, even if fully reimbursed;
5. inappropriate mandate, reimbursement not applicable; or
6. no opinion.

The statistics for this attitudinal survey are contained in Table 3-8. The most important findings of this phase of the survey are:

1. Unfunded state mandates are considered appropriate by only 15 percent of the respondents; and
2. with partial or full state reimbursement the 77 mandates, as a group, are regarded as appropriate by exactly 50 percent of the respondents; and
3. fourteen percent felt that mandates were inappropriate even if reimbursed.

Attitudes toward state mandates differed according to the level of

Table 3-8

Attitudes of State and Local Officials Toward Appropriateness
of State Mandates in 77 Functional Areas
Under Varying Conditions of State Financial Reimbursement,
by Region, 1976

Region	Appropriate Mandate with Full Reimbursement	Appropriate Mandate with Partial Reimbursement	Appropriate Mandate without Reimbursement	Inappropriate Mandate Even with Full Reimbursement	Inappropriate Mandate Reimbursement Inapplicable	No Opinion	Total
	Number	Percent	Number	Percent	Number	Percent	Number
Northeast	141	14	318	30	189	18	123
Midwest	184	13	276	19	177	12	252
South	394	18	462	21	270	13	309
West	156	9	299	17	327	19	229
Total	875	14	1355	21	963	15	913

Note. From Advisory Commission of Intergovernmental Relations, 1978, p. 51.

the respondent. Governors most commonly held that mandates were appropriate without reimbursement by the state for any resulting cost increase (28 percent). This was countered by the state municipal league representatives, 26 percent of whom felt that mandates were inappropriate under any condition. Significantly, mandates do not divide along state and local lines. Only 7 percent of the county association respondents felt mandates were inappropriate even if fully reimbursed, far less than their municipal counterparts, and half the rate registered by the governors.

A similar set of survey questions was developed for the personnel area. The finding of this survey for personnel other than police, fire and education are at Table 3-9. Significantly, all of the individual retirement system mandates are considered to be appropriate, as is indicated by the positive score. In addition, mandates regulating unemployment and workman's compensation received a positive score but only by a small amount. The remaining state mandates in this category, relating to hours, wages and conditions of employment other than collective bargaining, are regarded as inappropriate, as indicated by the negative score.

The data in Table 3-10 is quite different. State mandates affecting police protection, aside from those relating to retirement systems, were generally regarded as inappropriate. Only two others received positive scores; a requirement to provide police services and a mandate to set training standards. Taken together, these 14 police subfunctions were considered "appropriate" by 44 percent and "inappropriate" by 41 percent of the respondents.

Table 3-9

Attitudes of State and Local Officials Toward State Mandates
 That Govern Local Personnel Matters Other Than
 Police, Fire and Education
 and the Number of States Mandating These Activities

<u>Type of Mandate</u>	<u>Number of States</u>	<u>Total Score</u>	<u>"Appropriateness" Rating</u>	
			<u>Degree of Appropri- ateness</u>	<u>Degree of Inappro- priateness</u>
Disability Pension Benefits	33	21.0	26.4	-5.4
Minimum Years and/or Age for Eligibility for Normal Pension	36	19.8	26.1	-6.3
Workman's Compensation	42	19.3	26.6	-7.3
Normal Retirement Benefit Levels	36	17.7	25.3	-7.6
Minimum Vesting Period	33	17.0	24.7	-7.7
Early Retirement at Reduced Benefit Levels	32	13.9	22.8	-8.9
Local Benefits Increased if State Benefits Increased	19	6.3	18.7	-12.4
Collective Bargaining with Employee Organizations	22	2.6	15.9	-13.3
Unemployment Compensation	11	.2	17.2	-17.0
Regulations of Other Working Conditions	11	-13.5	9.7	-23.3
Employee Qualifications	24	-14.2	8.4	-22.6
Salary and Wage Levels of Elected Officials	26	-16.2	7.4	-23.6
Compulsory Binding Arbitration of Impasses	7	-18.0	7.0	-25.0
Employee Hours	20	-19.7	6.9	-26.6
Salary and Wage Levels of Appointed Officials	20	-25.1	4.0	-29.1

Note. From Advisory Commission on Intergovernmental Relations, 1978, p. 54.

Table 3-10

Attitudes of State and Local Officials Toward Appropriateness
of State Mandates That Deal with Local Police Matters
and the Number of States Mandating These Activities

<u>Type of Mandate</u>	<u>Number of States</u>	<u>Total Score</u>	<u>"Appropriateness" Rating</u>	
			<u>Degree of Appropri- ateness</u>	<u>Degree of Inappro- priateness</u>
Police Training Standards	41	17.7	20.5	-2.8
Minimum Years and/or Age for Eligibility for Normal Police Pension	43	16.8	23.8	-7.0
Normal Police Retirement Benefit Levels	43	16.2	23.3	-7.1
Police Minimum Vesting Period	40	15.2	22.9	-7.7
Early Police Retirement at Reduced Benefit Levels	34	12.3	21.7	-9.4
Police Required to Provide Service	27	11.4	22.3	-10.9
Local Police Benefits Increased if State Benefits Increased	20	2.3	17.1	-14.8
Collective Bargaining with Police Employee Organizations	25	-3.9	13.9	-17.8
Police "Heart" and/or "Lung" Law Disability Provision	15	-4.1	11.4	-15.5
Level of Police Service	5	-10.9	8.0	-18.9
Compulsory Binding Arbitration of Police Impasses	14	-14.9	9.4	-23.6
Other Police Working Conditions	12	-17.8	7.8	-25.6
Hours of Police Work	13	-20.6	6.4	-27.0
Police Salary Levels	15	-24.9	3.9	-28.8

Note. From Advisory Commission on Intergovernmental Relations, 1978, p. 55.

Table 3-11

Attitudes of State and Local Officials Toward Appropriateness
of State Mandates That Deal with Local Fire Department Matters and
the Number of States Mandating These Activities

<u>Type of Mandate</u>	<u>Number of States</u>	<u>Total Score</u>	<u>"Appropriateness" Rating</u>	<u>Degree of Inappropriateness</u>
Minimum Years and/or Age for Eligibility for Normal Fire Person	41	19.4	25.0	-5.6
Fire Minimum Vesting Period	38	17.1	24.4	-7.3
Normal Fire Retirement Benefit Levels	41	12.2	23.1	-10.9
Early Fire Retirement at Reduced Benefit Levels	32	10.8	20.9	-10.1
Fire Training Standards	9	10.4	18.6	-8.2
Local Fire Benefits Increased if State Benefits Increased	20	.6	14.9	-14.3
Fire "Heart" and/or "Lung" Law Disability Provision	19	-2.3	12.3	-14.6
Collective Bargaining with Fire Employee Organizations	29	-5.6	12.3	-17.9
Fire Department Required to Provide Service	15	-5.7	13.7	-19.4
Compulsory Binding Arbitration Fire Impasses	14	-13.2	9.3	-22.5
Other Fire Working Conditions	17	-14.3	8.9	-23.2
Hours of Fire Work	18	-19.2	7.1	-26.3
Level of Fire Service	4	-20.8	7.2	-28.0
Fire Salary Levels	9	-24.8	4.1	-28.9

Note. From Advisory Commission on Intergovernmental Relations, 1978, p. 56.

A state mandate to set fire training standards was the only one of eight such mandates relating to fire protection services judged appropriate according to the attitudinal survey data contained in Table 3-11. Five of the six mandates relating to retirement systems, however, were considered appropriate. As was the case in the police survey, "heart" and/or "lung" law disability pension mandates are not considered appropriate.

The ACIR (1978) study respondents were asked to list the four mandated functions which, "in your judgement, after deducting state reimbursement have the most substantial fiscal impact on" (p. 61) specified local governments. At the municipal level, the four most fiscally significant mandates were:

1. Normal retirement benefit levels (for personnel other than police, fire and education);
2. Solid waste disposal standards;
3. Collective bargaining (for personnel other than police, fire and education); and
4. Normal police retirement benefit levels.

This overall pattern held for nearly all regional and respondent groupings.

At the county level, responses to the question posed by the ACIR (1978) study indicated that the four most significant mandates were:

1. Judicial mandates;
2. General assistance, local share of payment costs;
3. Solid waste standards; and
4. Police required to provide services.

There is one significant finding here. At the municipal level, solid waste standards were listed as the second most financially significant mandate. And at the county level this mandate was listed in the number three position. The significance is that when the respondents were asked to consider the "appropriateness" of environmental protection mandates, all requirements and constraints in the area were considered appropriate. This indicates that the problem is financial rather than social.

In sum, more than one-third of the respondents held that state mandates were appropriate provided there is full or partial reimbursement of additional costs resulting from the mandates. A large number of unreimbursed state mandates impose a serious financial burden on local governments and makes more serious the problem of tax equity if local governments must finance the mandated activities principally by the general property tax. And therein lies the crux of the problem. States are not prone to finance the mandated activities - but that is another story of its own. But what of the other two-thirds? If one-third agree that the mandates are appropriate with reimbursement, then, by inference, two-thirds must feel that mandates are not appropriate even with some form of reimbursement. Thus we have a conflictual condition. Can there be any doubt as to a justifiable cause for concern among officials of local governments? The extent of encroachment upon the traditional role of the local government is evident. But there still remains the question of what are the implications of this encroachment upon the operational capability of the local government.

Localized DataThe Florida Assessment

One final look at the encroachment question. As stated at the beginning of this chapter, one of the source documents pertaining to determining the extent of mandating --read encroachment-- would be the Catalogue of State Mandates published by the Florida Advisory Council on Intergovernmental Relations in 1980. A major portion of the Executive Summary to this document is quoted due to its significance:

Statutory mandates, here defined as any responsibility, action or procedure imposed upon local government by existing legislation, are catalogued in this report. This listing represents several months of searching the Florida Statutes for sections that contain laws with potential and actual cost implications for local government. However, it is only a listing and mandate categorization system, and makes no attempt to quantify their fiscal implications other than a distinction between "negligible" and "substantial." The body of the report addresses past mandates, and is intended to provide legislators, local officials, or other policymakers with a comprehensive picture of their pervasiveness and areas of impact. For without a knowledge of the range and scope of mandates, they can neither be understood, nor their negative fiscal consequences for local government, fully appreciated.

Therefore, this cataloguing effort should be viewed as the first of several steps leading to the formulation of a definitive state policy with regard to the mandates issue. It provides a data base useful and essential at the beginning of the policy-making process and for a re-examination of the relevance of past mandates with respect to current policy.

If enactment of HB-4D is indicative of the State's current policy with regard to mandated costs, publication of this report is particularly timely. This law is unusual in that it exempts from a millage limitation the costs imposed by new mandates for fiscal year 1980-81. Because of this legislation the Advisory Council has included a brief analysis of mandates passed during the 1980 session as an appendix to this catalogue.

While few areas of local government were found to be immune to mandates, those areas of predominant mandating activity with substantive fiscal impact were personnel, public protection, health and exemptions. However, mandate areas with substantial impact upon county government did not generally coincide with those impacting both city and county government. For counties,

the numerous statutory changes implementing Article V amendments that abolished municipal courts are, when considered cumulatively, mandates with the greatest costs for counties. For municipalities and counties affected collectively by mandates, those imposing the greatest costs may be the numerous constraints, limitations, and exemptions that erode their revenue generating capacity. Various personnel requirements also impose substantial costs upon local governments, such as non-contributory pension systems and various pension benefits defined by statute. (Executive Summary)

There are many significant points in the above quote. First, it is to be noted that the inventory is limited to legislative mandates. Within this limitation the catalogue was still able to identify 159 mandates - some of which have multiple implications and functional components. Second, the report is critical of the State of Florida for its lack of mandate policy. Third, there is an apparent skirting of the statutory requirement to provide funding for any general law which is a mandate for new activity or service, or grants an exemption or changes the local tax base. These points need to be analyzed further.

At the beginning of this chapter, it was stated that the purpose of this section was to examine the extent of encroachment upon the traditional roles of local government, and its implication upon the operational capability of these units. The extent of mandating has been clearly identified and encroachment established. It is now time to look at one law, its mandates, and its implications upon the operational capability of local governments.

Implications

In 1980, the Florida legislature enacted House Bill 4-D, commonly referred to as Project TRIM (Truth in Millage). This bill contains three mandated actions within the language of the bill:

1. Limits property tax increases for 1980-81 to 8 percent over prior year, with some exceptions.
2. Effective in 1981-82, eliminates the reimbursement to local governments for the senior homestead exemption.
3. Provides for personal notice to each taxpayer regarding assessments, taxes, and budget hearings; prescribes procedures for implementation.

What are the implications of this bill? The first mandate listed might look good but it is rather facetious. From a political point of view, it can be stated that taxes were not allowed to rise by more than eight percent over that of the prior year. But it is only one side of the coin - the millage side. There are two components to the property tax revenue; the tax millage rate and the assessed value of the property. As a consequence, when more revenue is needed, and the millage rate is constrained, the assessed value of property can be increased to a level where the needed revenue will be generated. The implications are plain. It changes the variable incident to the generation of tax revenue to the tax base or assessed property values. Thus it is a change in the traditional role of government to raise revenue by regulating the millage rate. Additionally, it places a heavy workload on the Property Appraiser to insure that property values are adjusted so as to accomodate the dictum of the mandate.

The second mandate contained in the bill is more direct. Under the statutes in existence prior to the enactment of HB 4-D, the state reimbursed local governments for revenue lost as a result of an additional \$5,000 in homestead exemptions being granted to senior citizens who were homeowners. This mandate simply deleted the

reimbursement with no mention of a possible source for replacement of the lost revenue. The financial impact of this action upon the local governments of the state was estimated to amount to some \$31.5 million for the first year. As such, it represents a loss of revenue to each local government in relationship to the number of senior citizens residing in a given locality. This loss of revenue was particularly severe for those small communities that had a high concentration of senior citizens residing within their jurisdictions.

The third mandate indicated is particularly bothersome to local officials. The tax notification process is costly and time-consuming. Each taxpayer must be notified as to what the assessed value is of his/her property; the millage rate that would be required to generate the same amount of revenues as the prior year; the millage rate required to generate the revenues recommended by the taxing authorities; and the date, time, and location of budget hearings. There is an appeal process that allows a person to have the assessed value of his/her property evaluated. As was indicated above, many of these problems impose requirements or constraints upon the operational capability of officials of these local governments.

Summary

This chapter has demonstrated, through a review of available literature, the extent of encroachment upon traditional roles of local governments that is caused through mandating. It was pointed out that in 1978 local governments were subject to some 1900 mandates. These mandates include virtually every aspect of local government operations. And they are increasing in numbers, range, and scope at an alarming rate.

As to the cause and effect relationships, it was brought out that such relationships exist between mandating activity, inter-governmental relations, and the change to creative federalism. The probability is good that these relationships will continue as long as federal grants are used to finance social needs.

The data compiled by the Advisory Commission on Intergovernmental Relations was used to portray the areas of local government that are most commonly impacted upon by state-initiated mandates. The findings of this study also show the lack of support at the local level for most mandates, and the financial implications inherent in most mandates.

Finally, the question was localized to the Florida arena where one law, its mandates, and their implications were argued. The feeling here is that such mandates seriously encroach upon traditional roles of government. And where encroachment exists there is a loss in the operational capability of the local government unit.

CHAPTER IV
THE IMPLICATIONS OF MANDATES ON FEDERALISM

The Federal System

Federalism is what federalism does. (Peterson, 1981, p. 66)

Introduction

The relations of local government to any ordinate level of government is predicated on the seemingly contradictory principles of union and independence. How these principles are reconciled, in practice, and at any given time and place, goes to the very heart of the American political system, and our federal system. The question is whether a given function should be the responsibility of the ordinate level of government, or is it more appropriately delegated to the subordinate level of government within that system.

Most political science analysts feel that cities are the same as nation-states, and vice versa. This position is argued by Peterson (1981). Cities differ in a variety of ways from the ordinate levels of government. Local politics is not like national politics; it is the most limited in its capacity to do what is needed. The city, and, by inference, other subordinate levels of government, is part of a larger socio-economic and political context. The primary interest of local governments is the maintenance and enhancement of their economic productivity. It is to their land area that subordinate

levels of government must attract productive labor and capital. The place that these units of government fit into the overall structure determines the policy choices, or the lack thereof, that are available to their elected officials. Peterson contends that it is the consideration of these interests that limits local government policy, and conditions what they are able to do.

There are many ways to address the question of appropriate assignment of jurisdiction and authority, or role, among diverse territorial units of local government. But it seems logical to assume that such role assignment, with its inherent jurisdiction and authority, must of necessity be a central element of the policy implementation process. For without such authority, the jurisdiction ceases to meet the minimum requirements of being a local government; it has no designated role; it is a non-entity. The immediate implications are that mandated actions, by definition, diminish the role of local government as has been demonstrated in earlier chapters of this study. There is a need, however, to analyze the concept of federalism and its inherent role assignments so that the extent of the implications can be postulated.

But what is federalism? Is it something that is clearly identifiable? Maybe, but by whose standard? To quote Deil Wright (1978):

We have been exposed to "the New Federalism" (Nixon), "Creative Federalism" (Johnson), "national federalism" (Sundquist), "Centralized and peripheralized federalism" (Riker), "cooperative federalism" (Corwin), "mature and emergent federalism" (MacMahon), and others too numerous to mention. At least thirty-four "types" of federalism have been recorded. Clearly, federalism is a much-used and much-abused term. (p. 19)

If it can be said that mandates create a major concern for local officials, it can likewise be stated that part of the problem lies in the fact that there is no concise meaning or understanding of federalism.

It is argued that federalist issues are at the heart of any discussion of the mandate issue. Hamilton and Jefferson argued the merits of a strong central government versus the rights of states and local governments. It might be candidly stated that that argument still remains to be settled. But there are many interpretations of the form of federalism that need to be considered.

Pragmatic Federalism

During the period 1789 until about 1901 the United States operated under what has been termed Dual Federalism. This concept envisioned a national or ordinate level of government and a regional or subordinate level of government, or, as more commonly referred to, the federal government and state government. The validity of this concept was reinforced by various Supreme Court decisions, primarily during the tenure of Chief Justice John Marshall. Significantly, neither the constitution nor the court decisions mention local government. And this was always a bone of contention for those individuals that adhere to the concept of territorial democracy. But in 1868, Judge Dillon established what has been figuratively called "Dillon's Rule." This interpretation of the Constitution said that counties and municipalities were "creatures of the State" and derived their power from the state within which these local governments are located. It is readily recognized that such an interpretation is in contradiction with the territorial democracy point of view.

The partnership that resulted from Dillon's Rule remained relatively stable until the advent of the Progressive Party and President Teddy Roosevelt's New Nationalism around 1900. President

Roosevelt (1910) argued for a change in federal-state relations, essentially, due to the purported distrust of state and local governments as partners in the federal scheme. The key change in New Nationalism was the advocacy of national policies for regional implementation. But the device that gave meaning to this concept was the enactment of the 16th Amendment in 1913 which gave the federal government the power to tax the incomes of corporations and individuals. This marked the beginning of an era wherein huge amounts of revenues were collected by the national government, distributed to the local and state levels of government for spending, all the while carrying out the policies and procedures of the national government.

The period between 1901 and the early 1960's is also known as the era of Cooperative Federalism. Whereas the New Nationalism of President Teddy Roosevelt advocated the intrusion of national policies into the local arena, Cooperative Federalism institutionalized this concept. This period saw a great amount of policy emanating from the ordinate level of government which pertained to those general welfare services that had previously been considered "local" in nature. This was especially true during the New Deal era of President Franklin D. Roosevelt. No longer were there significant areas that were exclusively the domain of the lower echelons of government. Although there are many examples of the ordinate level of government assuming the role of the policymaker and the overseer of programs, the fiscal impact upon local governments was relatively insignificant. However, the precedent was established.

Although mandating in some form or other had been around since the founding of the Republic, it was the enactment of the Federal Road Act of 1916 that really gave meaning to the concept of mandating to accomplish national goals or objectives. For it was through implementation of this act that federal agencies began to specify conditions pertaining to the utilization of the appropriated funds. Most importantly, these implementation procedures gave the federal government the overseer role - to include supervision and auditing responsibilities.

Thomas Dye (1973) has some very significant comments pertaining to this sort of an arrangement. Dye contends that, theoretically, the federal government may not enact laws to regulate the general welfare directly. But it can tax, borrow, or spend money for this purpose. Thus the national government can provide financial assistance to the local governments for the purpose of building highways and then pass a law that threatens to withhold the revenues unless, for example, the recipient governments pass a law that prohibits the posting of billboards along the highways that are constructed. More recently, the Congress passed and President Reagan signed into law a provision whereby these highway funds will be withheld from states that do not enact a measure which sets age 21 as the minimum age for consuming alcoholic beverages. This, according to Dye's views, is regulation through its taxing power, even though the field is specifically reserved to the subordinate level of government.

But it was not until 1964 that the real change in federalism occurred. This period marks the era of President Lyndon B. Johnson and his "Great Society." The philosophy espoused for the Great Society

programs clearly advocated the national government with the role of setting policy: Congressional legislation began to state that the purpose of the statute was to accomplish a national goal. Implementation would be accomplished through subordinate levels - to include state governments, local governments, and psuedo-private organizations. Funds to implement these programs would be provided by the ordinate level but with "strings" attached. Thus, President Johnson is credited with implementation of the concept of Creative Federalism. And this initiated some of the strongest debate that Congress has witnessed.

There were many advocates of the Creative Federalism concept. But there were also many that did not agree. But the sentiment that prevailed is perhaps best expressed in an address by Senator John L. McClelland of Arkansas which is contained in 110 Cong. Rec. 1964 (cited in Cappalli, 1982):

The strength of our federal system is no greater than the strength and vitality of the many governments that compose it. Fiscal capacity is both an essential ingredient of this strength and one vital measure of it.

If State and local governments are to absorb additional functions or to take on an increasing share of emerging governmental responsibilities, the question arises whether they are financially able to carry the load. States, and more particularly local governments, are said to lack resources adequate for the discharge of the duties and responsibilities required of them. If it is impossible for them to satisfy the demands of their citizens for governmental services, traditional local self-reliance may be weakened and pressures may increase for Federal participation in services hitherto regarded as primarily State and local responsibilities. From the earliest days of the Republic, it was obvious that fiscal imbalances among levels of government would have to be reduced if the Federal form of government was to endure and if government as a whole was to be responsive to the people.

There are many obstacles in the way of expanding State and local revenue to enable these governmental levels to assume their proper responsibilities. There is not now and there never

has been a single solution. From the beginning, it was obvious that a combination of measures would be required to make possible a proper allocation of activities and to insure adequate financing of these activities.

Agitation for fiscal readjustment between the components of the Federal system is neither novel nor recent. It recurs with every significant expansion in governmental activity and, in one form or another, has been a continuing problem since the formation of the Republic. Of course, the problems that confronted earlier generations seem not too difficult in retrospect, but they loomed large to those that had to deal with them.

Governments existing by the will of the governed are destined to be confronted with fiscal problems, since free people seem to have both an appetite for governmental services and an instinctive aversion to taxes. (Chapter 1, p. 1)

The basic question is: Why would the United States be interested in distributing conditioned donations to public and private bodies throughout the country?

Assuming the supported projects are worthwhile endeavors, there is political capital to be gained. To be the sponsor of a popular public program is to have a strong advantage at the hustings. Politics to one side, in its first article the United State Constitution explicitly authorizes the Congress to use its taxing and spending authority to promote the general welfare. The Supreme Court has held that the Congress is not restricted to the enumerated grants of authority in Article I when it is exercising its Spending Power. It may act at large in pursuance of the "general welfare," and the Supreme Court has bestowed large tolerance on Congress to determine when and how to act in the public interest. To illustrate the extent of this support of the general welfare, Cappalli (1982) states that even after the budget holocaust of 1981 there remains some 170 assistance statutes which fund or authorize 825 programs to the tune of \$92.1 billion annually.

Thus we have the basic concepts of federalism as viewed from a pragmatic approach. But how well does the view coincide with the textbook version of federalism?

Federal Theory - The Academic Debate

The origin of debate concerning federal theory as constituted in American democracy can be traced, not to noted American scholars, but to two non-Americans. The first of these was Alexis de Tocqueville, a French aristocrat, who toured the United States in 1830 and subsequently wrote Democracy in America. He was followed by Lord James Bryce of England who published The American Commonwealth in 1888. It must be noted that the first textbook on American government appeared around 1900; the first on state government in 1916.

De Tocqueville (cited in Press and VerBurg, 1983) approved of the system of checks and balances which he observed, as well as the federalism concept. But he feared "a tyranny of the majority" if it were to be used by a majority to suppress individuality and excellence. De Tocqueville was of the opinion that in the American federal system, locally elected officials, rather than a national bureaucracy, administered the policies of the nations. In many respects this view approximates the findings of the ACIR (1978) study.

Bryce (cited in Press and VerBurg, 1983), more so than de Tocqueville, studied the structure of state governments. His particular interest was in the social and economic aspects of the subordinate levels of the federal system. He argued that government and politics should be approached in terms of its political setting - a position very close to that of V. O. Key, Jr.

The modern classic on federalism is by a British authority, K. C. Wheare (cited in Reagan, 1972), who states that federalism is "the method of dividing power so that the general and regional components are each, within a sphere, coordinate, and dependent" (p. 7). Wheare contends that neither government must be in a position to "override the terms of their agreement about the power and status which each is to enjoy" (p. 7). In discussing the prerequisites of federalism, he adds that the constituent units:

-must possess sufficient economic resources to support both an independent general government and independent regional government. It is not enough that the general government should be able to finance itself; it is essential also that the regional government should be able to do likewise. (p. 7)

It is exactly this inability of the subordinate levels of government to finance their needs and demands that led to the development of Creative Federalism and the grant programs.

Daniel Elazar (1984) traces the meaning of the term "federal" to the Latin word for covenant or compact. Thus, federalism is best conceived as a partnership between parties with common endeavors. This is essentially the same definition as provided by Wheare. We can therefore look at mandates as an impact upon either of the parties. And if one of the parties is utilizing mandates as a means of imposing its policies upon the other then there is a degradation of the mutual benefits to be received. And since mandating, by definition, is an imposition of some constraint upon a subordinate level, then it is logical to assume that the cost-to-benefit ratio has shifted in favor of the mandating agency.

Then where do we stand today? Has mandating altered the concept of federalism? Has government by mandate replaced government by

negotiation? Has the concept of territorial democracy been replaced by territorial federalism? Elazar (1984) discusses these and many other aspects of the mandate issue and its implications on federalism as "squeak points." Elazar concludes that state government has been able to maintain its integrity. Still, the question of the impact of mandating on local governments begs to be answered. While Lovell (1981) and MacManus (1981) see mandates as a detriment to operations at the local level, James Sundquist (1969) defends mandates on the basis that certain activities require strong leadership.

William H. Riker (1964) provides an interesting insight into federalism. Riker says that federalism can be either centralized or peripheralized. The centralized version is understood to have greater influence over what happens in our society as a whole than do all of the rulers of the subordinate governments. And, having this influence, they tend to acquire more influence - power begets power. Thus, an identifying factor of centralized federalism is the tendency, as time goes by, for the rulers of the federation to overawe the rulers of the constituent governments. And vice versa, should the situation arise. Riker contends that American federalism after 1787 was legally and constitutionally centralized. Riker's justification for classifying a constitution as federal requires three elements: (1) there must be two levels of government that rule the same territory; (2) each level has at least one area of action in which it is autonomous; and (3) there is some guarantee of the autonomy of each level of government in its own sphere. Thus it represents bargains that all parties are willing to make.

The general reason for the survival of centralized federalism is the fact that they are centralized: that the rulers of the federation can overawe and overrule, but not annihilate, the rulers of the constituent units. The two factors through which this concept is operationalized are: (1) further centralization (such as exploitation of the taxing and spending powers); and (2) the maintenance of guarantees to the constituent units of government. The institution that serves the guarantee-maintenance function is the system of political parties. They encourage or discourage the maintenance of the federal bargain.

Riker's (1964) criteria for a federal system closely approximates those of K. C. Wheare (cited in Reagan, 1972). But are these criteria being maintained by the American political system? In many respects the answer is an emphatic no. Thomas Dye (1973) contends that Dual Federalism never existed. Morton Grodzins (1966) described the federal system as a "marble cake" system wherein there was a mixture of shared functions and responsibilities. This position is essentially the same as that taken by Elazar (1962).

In 1939, Professor Harold J. Laski (cited in Rockefeller, 1962), in his The Obsolescence of Federalism, concluded that federalism was "languishing near death" (p. 1). Laski did concede that "federalism is the appropriate technique for an expanding capitalism" (p. 1). But he added "contracting capitalism cannot afford the luxury of federalism" (p. 1). These comments did not go unnoticed and in 1962 Nelson Rockefeller countered with his concept of the "federal idea." Rockefeller stated that "although the constitution covers only two levels of government there are, in effect, three levels. The federal

idea, then, is above all an idea of a shared sovereignty, which at all times is responsive to the needs and well-being of the people in whom sovereignty ultimately resides" (p. 1).

But Michael Reagan (1972) is somewhat at odds with most of the federalist writers. Reagan sums his views very concisely when he states: "Federalism - old style - is dead. Yet federalism - new style - is alive and well and living in the United States. Its name is intergovernmental relations" (p. 3). Reagan contends that federalism, old style, was a legal concept. This is in agreement with Riker, Rockefeller, Grodzins and Elazar. Reagan adds that federalism, new style, is a political and pragmatic concept. Where conventional federalism was a static notion, the modern version of federalism, in keeping with the more realistic approach of present-day political analysis, is dynamic. It pictures the intergovernmental relationships as one of constant change in response to social and economic forces, as well as to changes in such significant political factors as the party and the electoral system. In formal terms, constitutional divisions are made only through constitutional amendments. In actual practical practice, these changes are made through Supreme Court decisions, legislative enactments, political custom, and *de facto* changes brought about by the rise in technology for communication and transportation. According to Reagan, the constitution is sufficiently broad to cover a variety of situations; thus the form can remain constant while the content changes radically. And this, at least in Reagan's view, is what has happened to American federalism.

There are many writers that are in agreement with Reagan's views, at least in part. Deil Wright (1978) says that intergovernmental

relations is a new, more comprehensive term for federalism. David Walker (1981) doubts that we have a functioning federalism - if we ever had one - and concurs in the idea of what we do have is more in the nature of intergovernmental relations. And Daniel Grant and H. C. Nixon (1963) recognized the trend toward intergovernmental relation domination of the roles played by the participating actors. Paul Peterson (1981) adds that modern federal theory has replaced the older concept with the flexible idea that the ordinary level of government can and does exercise any function performed by the subordinate level. According to Peterson, intergovernmental relations is characterized by endless sharing and exchange which results in no discernible structure.

The formal theory of federalism thus stresses the independence of each level from each other, and there is some division of the functions of government (e.g., defense is national while education is local). States rights ideology based on Tenth Amendment and the enumerated powers contained in Article 1, Section 8 accounts for the general views of autonomy. But Reagan (1972) contends that this view overlooks the "elastic clause" which states that Congress may "make all laws which shall be necessary and proper for carrying into execution the foregoing powers" (p. 10). This elastic clause has been broadly interpreted by the Supreme Court and gives credence to the notion that the constitution is what the judges say it is. Elazar (1984) argues that the net effect is that judicial review can alter the term of the federal arrangement unilaterally. Since the Tenth Amendment has no independent power to foreclose expansions of federal activities under the necessary and proper clause, there is no

constitutionally binding permanent division of authority between the national and state levels of government. It would seem that the only aspect of state government that is beyond the reach of Washington is the very existence of states with their present boundaries. In this respect Elazar is correct.

But what of the states under these conditions? Elazar (1984) found that the states have not been reduced to nonentities; the federal government has become a partner with the state in areas that were previously thought to be local domain. And it is the federal grant-in-aid that have brought this about. For as writer M. J. C. Vile (cited in Reagan, 1972) has stated: "The foremost characteristic of American federalism is the inter-dependence of state and federal governments, not their mutual dependence. . . . Modern American federalism is characterized more by the extent and importance of an area of concurrent power, than by anything else" (pp. 13-14). Federal grants-in-aid represent the most significant means by which the federal government has been able to exercise concurrent power at the state and local level. We have not seen much of an extension of the national government into the area of running domestic programs directly, but there has been an enormous increase in the number of programs, and their scope and size, that are operated by states and localities with federal funds and with varying (though sometimes substantial) degrees of federal policy control.

Intergovernmental Relations

Mechanisms for Change

The strictest forms of federal control do not consist of federal programs replacing national or state activities. Rather, they consist of federal administrative actions, legislation, and court decisions that impose national standards in areas where the previously prevailing community standards were those of the respective localities. Just as government has learned how to manage the economy as decisively as any socialist system, yet without engaging in nationalization of the ownership and direct management of plants and factories, so also do we find that the national government can interpose the view of a national majority upon reluctant states and localities, and can strongly influence the budgetary allocations of state governments through the choices it makes in its own grant-in-aid allocations, all without in any way touching the formal structure of federalism. The bottle may be old, but the wine is new. Because of court decisions, custom, and the changing social structure induced by "pictures in our heads" uniformly distributed across the country through the mass media and through the travels of an astoundingly mobile population, we have now arrived at a point in our national history where no sphere of life is beyond the reach of the national government. Since we no longer question federal acts, the deciding factor becomes one of policy rather than legality. As William Anderson (cited in Reagan, 1972), a close student of the federal system, wrote in 1955:

When Congress considers any new measure . . . it needs to consider carefully whether it is necessary or even desirable to push national action to the limits of national power. In many situations it may be better, as a matter of public safety, to assist and induce the state and local governments to perform the service up to at least a minimum standard. (pp. 13-14)

This is where the grants-in-aid play their part: they are the devices whereby the national government assists and induces state and local governments. And it is the implementation and administration of these devices that arouses the concern of local officials.

The developing modern perspective views federalism in pragmatic terms as a way of getting things done more effectively. From the viewpoint of political science, federalism does indeed have great importance in our system. It is argued that that need is not sufficient to replace the original need to compromise. Rather, it consists of adding an element of great complexity to political analysis, for in our federal context it becomes a matter for empirical investigation (and reinvestigation due to the constant change) to determine who holds the balance of power and the more influential leverage regarding what each level of government shall do at any particular time and with regard to any particular subject. In a unitary state, there is less doubt regarding where power lies.

Given that the current concept of governmental operations is best characterized by the term intergovernmental relations, it seems appropriate to address the origin and method by which the system has gained its prominence.

The origin, development, and features of IGR are well documented by such noted authors as Anderson (1960), Graves (1964), and Wright (1975). But intergovernmental relations goes beyond either of these publications. In 1949, E. A. Lutz (cited in Wright and White, 1984) had the following comments concerning initial efforts to establish councils (i.e., coordinating agencies designed to facilitate intergovernmental relations), the problems that they faced, and the

judgements that these councils made:

1. That control over local affairs and local governments has gradually been more centralized into the state and federal governments.
2. That unless checked, this gradual drift will continue.
3. That the rapid expansion of government has confused the minds of people at the "grass roots" and there is no clear cut understanding as to what phases of government should properly and profitably be federal, state, or local.
4. That unless clarified and the trend reversed it may eventually undermine democratic government.
5. That this gradual centralization of authority and control has been due in part to the feeling by those at the top and in control, that the people at the local level are not capable of handling the problems which arise.
6. That the Council does not believe this to be true. It believes that the feeling has arisen, not as a result of the incapacity of the people, but rather as it is due to the absence of interagency coordination at the local level and a positive citizen interest and participation in the direction of "our government."

Just as citizen participation and interagency coordination is a problem today, so it was some four decades ago.

Following the post-WWII era there was a steady improvement in the professionalism of officials at all levels. Concurrent with this increase in professionalism was the much-needed improvement in the processes and structure of local governments. Given the combining

effects of these two changes it is evident that during the past decade and a half a new system of domestic government in the United States has emerged - one whose degree of complexity and interdependency, extent of interlevel contacts and constraints, and vastly expanded scope of intergovernmental financing and servicing arrangements are in marked contrast to the simpler, more separated features of its predecessor patterns of the fifties and certainly of the twenties. That system, after all, was intended to function chiefly with minimal intergovernmental interaction and little "sharing" of functional responsibilities, and during the fourteen decades from 1790 to 1930 this was the dominant practice. Moreover, while the New Deal and its aftermath generated a somewhat greater federal-state-local collaboration in the provision¹ of services, the fairly limited scope of the intergovernmental relationships of this period only underscores the dramatic changes that have occurred since 1960.

This present system, then, represents a definite break with the past. It was, and is, shaped primarily by a welter of dynamic forces - judicial, fiscal, servicing, attitudinal, social, political, and representational - that were unleashed primarily in the mid-sixties. These were strengthened in the seventies to the point that today nearly every facet of domestic American policy has been thrust into the intergovernmental arena. This has created such an overloaded system that many observers question the functional capability of contemporary American federalism.

This contrast between the past and the present can be vividly portrayed by looking at the story of Muncie, Indiana - perhaps the most documented community in the United States following the publication

of Middletown in 1929 and Middletown in Transition in 1937. But according to David Walker (1981), Muncie is mad at, but dependent on, the system and cites the findings of sociologist Theodore Caplow (cited in Walker, 1981) to describe the feelings of the community: "In 1924, the federal government was symbolized by the post office and the American flag. Today, two-thirds of the households in Muncie depend on federal funds, to some extent" (p. 3).

When the local citizenry were quizzed on their attitudes toward federalism there was a pronounced "anti-federal government" attitude prevalent although Muncie had received some \$679 million in federal aid between 1968 and 1977. Walker concludes that this, the "mutinous" mood of its citizenry, says a great deal about the condition of contemporary federalism, the labyrinth of governmental relations that underlies it, and the public philosophy that sustains it.

But are these dimensions of change as seen from and reflected in Muncie true of the nation as a whole? Walker (1981) sums the situation thusly:

From a system-wide vantage point, one stark generalization can be made: never have the funding, functioning, administration, and staffing of so wide a range of state and especially local services been as "intergovernmentalized" as they are today. The Muncie story, then, is characteristic. If anything, it understates the complexity and breadth of the cities intergovernmental links and their constraining influence, since it did not cover a range of other federal-aid-related and recent state developments. (p. 5)

Two principal reasons for this increasing and incessant intergovernmentalization of the system are the phenomenal recent expansion of the federal assistance system, along with a wide range of closely related regulatory developments, and marked changes in the states' fiscal and regulatory policies toward their localities since the mid-sixties.

In combination, these have produced a multiplying of interrelationships at all levels. Hence the adjective overloaded appears justified.

Walker (1984) concludes his study of the overloading aspects of the system with the assertion that these developments combine to indicate basic systemic change. This change is seen more clearly at the local level - witness the saga of Muncie. There is no direct relation between the New Deal and today's understanding of cooperative federalism. The "marble cake" that replaced the "layer cake" has in turn been replaced by an overloaded, cooptive system whose evolution has profound implications for the functioning of American federalism, now and in the future.

Implications

It is evident that the grants-in-aid have created change in inter-governmental relations that need to be evaluated as to their impact on operational capability. Four factors critical to this evaluation have been identified by Walker (1981). One relates to the extent that grantees are permitted unrestricted, wide, or narrow program discretion--that is, whether or not funds received must be spent on programs at all, or in specific but broadly defined functional areas, or on carefully prescribed projects or services. A second factor is the degree to which the grantor stipulates tight, broad, or nominal program conditions. A third is whether statutorily based or dictated distributional formula or a basically discretionary allocational approach is adopted, while the fourth relates to recipient eligibility and focuses on whether a broad or a narrow range of recipients is recognized under the pertinent statutory provision. These four factors are not discrete and disconnected. They interact to produce various forms of intergovernmental fiscal transfers.

The federal aid system not only changed in form during the current era; it has also shifted significantly in its program emphasis. The overall picture that emerges from these shifts and expansions is clearly one of greater breadth and diversity as well as one wherein people-related and assistance programs (income security, education, training, employment, social services, and health) assumed a more dominant position.

Still another basic change in the aid system has occurred with the conditions attached to grants-in-aid programs. Here the perennial legislative tendency to impose "strings" undercuts the ostensible arrival of a tripartite aid system. In the earlier era, grant conditions were almost wholly program specific, hence vertical, in their nature with institutional (single state agency) and personnel (Hatch Act and merit-systems) requirements added to some (chiefly the public welfare and employment security areas). Today, all of these more traditional programmatic conditions will apply, obviously to the categoricals, which will dominate the grant scene, and increasingly to the block grants. Over time, the tendency among block grants is to acquire additional conditions within and, in some additional, functionally related categorical programs, without. Witness the much more conditional status of the Safe Streets, CETA, and CDBG programs now compared to their respective grant designs. Not to be overlooked here is that with the renewal in 1976 of general revenue sharing, this presumably least conditional of all federal-aid programs imposed requirements on its 38,000 recipients that ranged from citizen participation, audits of all funds expended, restrictions on debt retirement with GRS monies, and compliance with prevailing wage rates for

construction projects to protection against discrimination in recruitment and employment of various population groups, in the provision of public services, in the selection of facilities to be financed out of federal funds, and by subcontractors.

Perhaps the most significant development in this era of "creeping conditionalism" was the piecemeal, yet persistent proliferation of conditions that applied generally or selectively to all or most assistance programs. Most of these take the form of a single legislative enactment, but some take the form of multiple enactments in various grant programs. This reflects a new thrust in conditions attached to grants; conditions that depart significantly from the older, largely program-specific type.

To sum up, the many dimensions of the growth of and changes in aid programs underscore and symbolize the emergence of the heavily intergovernmentalized system that now prevails. This is not to say that regulatory promotional activities have not been important. They clearly have. But the many contrasts between the 1960 era and that of today provide the paramount basis for claiming that a new one has, in fact, evolved. Moreover, as Walker (1984) argues, the functional, administrative, and political implications of this dramatic development signal the end of cooperative federalism as it was understood and practiced two decades ago and heralds the advent of a cooptive, as well as a dysfunctional, federalism, whose problems and paradoxes rank among the top items on the nation's agenda of unfinished business.

Since 1960, the sphere of national authority has expanded even more massively than it did after the New Deal. To a far greater degree than in the earlier era, the ordinary level of government has

assumed a vastly more assertive role as regulator, reformer, and promoter of social and environmental goals. To these two roles must be added that of senior partner in the intergovernmental fiscal transfer field.

In sum, the states have been assuming a far more assertive stance in revenue raising; their aid programs to local governments, direct assumption of new and sometimes hitherto local functions, and mandates and regulatory initiatives affecting their localities. These actions, when combined with those of the federal government, have given rise to an overloaded system - a system wherein the higher levels of government provide few direct services and the bulk of the services performed by subordinate governments is conditioned by the funding, the regulations, and the conditions of the higher levels, thus raising serious questions regarding efficiency, effectiveness, equity, and especially accountability. It is this convoluted and overburdened condition of contemporary servicing arrangements that must be addressed.

Then what are the implication of mandated actions on federalism? Obviously, it depends upon the definition of federalism that is used. First, if the traditional concept of Dual Federalism, the textbook version, is used it is safe to say that mandates have been the catalyst that caused the transition from that system to the present aggregation of shared functions and responsibilities. As such, the role, or roles, for the subordinate level of government has been significantly reduced. The capacity of the local government to meet the expressed needs and demands of its constituents is eroded by the fact that mandates in the form of "strings" attached to grants specify conditions that are detrimental to the process of decision-making and subsequent setting

of priorities for public goods and services. This is of necessity a loss of autonomy. It is the substitution of prescription for negotiation.

Second, there is the dependency issue. As Lovell (1981) has stated, information is beginning to accumulate that indicates that local governments are becoming more dependent upon the ordinate level of government for policy direction. When a government loses that capability it ceases to be a government since the capacity to set policy must of necessity be the touchstone of governmental operations. The current system of intergovernmental relations effectively substitutes ordinate-level policy and procedures for locally determined ones. Consequently, local governments are being forced to reorder their priorities.

Third, intergovernmental relations, within the context of Michael Reagan (1972), alters the structural organizations that have traditionally been utilized to provide services to local populations. This has a multiple effect: (1) it establishes new mechanisms for the provision of services that are non-jurisdictional; (2) it creates a serious impact upon the political party system since it is most difficult to associate action (or lack thereof) with any particular group; and (3) it impacts upon the electoral system by denying voters an uncluttered understanding of accountability for actions taken or not taken, as the case might be. This is clearly demonstrated by the concept of "regionalism" as implemented by the Office of Management and Budget Directive A-95. Although this directive has been abolished at the federal level, it remains as a state device.

Summary

In his book, The Unwalled City, Norton Long (1972) makes an interesting analogy between foreign aid systems and domestic aid programs. One significant segment of this book follows:

If there is one thing that our experience with foreign aid should have taught us it is that the only governments and societies that can be helped are the ones that want to be helped and are prepared to help themselves. Revenue sharing, the current panacea for the city, is no more likely to produce viable local economies than was foreign aid abroad. The tragedy of the growth of the local public sector is that while it provides incomes to those it employs, it has no necessary connection with increasing the viability of the local economy and, all too often, is so much dead weight dragging it down. Most mayors and urbanists view the city as largely powerless to significantly affect their fate through their own actions. This leads the cities inhabitants and the cities leaders alike to expect to accomplish little through their own efforts and to rest their salvation in the hands of outsiders. The contemporary city of the nation-state has looked to the nation and to market capitalism to insure its economic viability. In an era of rapidly expanding local public goods, the mechanisms have failed. The cure for the disease, if there be a cure, lies in the rebuilding of the city as a political community where the members accept a common shared fate and empower a leadership to shape that fate so far as it lies in the power of the city. (pp. VII-VIII)

And along these same lines, Max Weber (cited in Long, 1972), in his book The City concludes that "when the citizens ceased to man the wall, the city ceased to be" (p. IX). The City of New York is more populous and wealthier than the State of Israel. Yet no one can doubt that the City of New York possesses far less capacity to mobilize men and materials than does the State of Israel - the ability to man the walls. The frontier towns of our past were defense communities. This was replaced by the commercial or merchant city, and was followed by the manufacturing city which undercut the base of the economic interests and leadership of the city. This is clearly documented by Robert Dahl (1961) in his book Who Governs? It illustrates that the

hierarchies of society, the economy, and the polity may cease to coincide. The point, and one which is paramount to the study of mandates, is that to attempt to alter a society through the use of devices that prescribe policy, procedures, and structural change cannot always be relied upon to effect the desired outcome.

This is not to say that such impositions never accomplish benefits: far from it, for there are numerous examples that prove the point. Rather, it is to say that such impositions should be considered judiciously, and applied only where the concept of territorial democracy is not destroyed in the process.

Federalism is what federalism does. Dual sovereignty might be dead, but what was the disease that caused the demise? Probably not a disease but the lack of a clear delineation of roles and responsibilities for the actors involved. Crucially, the formal definitions of federalism are so vague that it is virtually impossible to distinguish federalism from relationships that exist between central and field offices of a unitary system. The replacement for federalism does not improve the definitional aspects of role assignment, authority and jurisdiction, but relies upon an ever-changing process to establish effective relationships. And in most instances these changes have been caused by mandating. For it must be remembered that the main purpose of mandates is to impose the will of the ordinary level of government - to force local jurisdictions to take actions that they would not otherwise do. Mandates have been successful in accomplishing this task; the result is the current concept of intergovernmental relations. Whether this is good or bad depends upon ones set of values and where that person sits in the hierarchy of policial decision-making.

CHAPTER V IMPLICATIONS OF MANDATES ON DEMOCRATIC CONTROL

There is no greater challenge in courage to the inventiveness of the federal idea than the surging tide of urbanism. The problems of urbanism have outrun individual local government boundaries, legal powers, and fiscal resources. And the national government is too remote to sense and to act responsively on the widely ranging local or regional concerns and aspirations. (Rockefeller, 1962, p. 47)

Autonomy

Introduction

The history of the growth of laws and executive and administrative regulations designed to force local governments to carry out non-local purposes is the history of the precedence of accumulated universally defined needs and demands for equality over the traditional values of local autonomy. This is mandating, which is neither new nor novel.

Recently, however, two factors have intensified the impact of mandating on local governments - the enlarging direct relationship between the federal government and local governments, and the exponential increase in grants-in-aid. The trend towards increased federal-local relationships can be observed for mandating as well as for grant policy. Whereas in past periods, the federal government tended to rely on states to achieve regulatory goals (as in the

case of wages and hours, working conditions, and safety) the sixties and seventies have seen substantial growth in direct local governmental regulation by the federal government.

As the federal government has increased its direct impositions on local governments, so have the states simultaneously increased their impositions. Now local governments are the recipients of the combined impact of both state and federal agencies. The net effect of increased mandating has been, in one sense, an expansion of the responsibilities of local governments as they have been directed to administer national and state policies. On the other hand, it can be argued that the quantity and scope of mandating has eroded the autonomy of local governments and, to some extent at least, compromised the principles of self-government. Although the full extent to which the options of the local governments are constrained is still not known, nor possible to determine, the key point is that the pervasiveness of mandating has substituted prescription and compulsion for the autonomous negotiating relationship among various governmental spheres which the traditional federalist defenders would insist is the touchstone of a truly democratic system.

Intergovernmental relations are more prevalent in disbursing than in collecting public funds. Hence the central government collects billions in revenue to be expended through decentralized local channels with accountability to central authority. The Federal Road Act of 1916 set up standards of cooperation in the administration of joint projects with Washington having advisory, supervisory, and auditing capacity. That precedent has been expanded into the current maze of intergovernmental relations.

There have been several serious and well-organized efforts to halt the trend toward the increased centralization of responsibilities, expenditures, and grants-in-aid, and also to reverse the trend by returning to the subordinate level of government as many functions as possible. Yet each met with failure - and some even advocated an increase in centralized power. The major problem was the political cost to a state or local official that would have to raise taxes to finance any transfer. These efforts did lead to the creation of the ACIR which increased the awareness of the urban problem by including mayors and county officials in the group. This has undoubtedly contributed to the increase in federal-city relations.

The Dependency Issue

The most important effect of mandates, and the central purpose, of course, of program mandates has been to force local jurisdictions to undertake activities that they would not otherwise do. Mandating has been successful in this purpose. Mandating has not, however, stopped at introducing new kinds of programs. Lovell et al. (1979) found that the bulk of mandating is being done on procedures. Local governments are being told how to do things along with what to do. Procedures are the most likely to be location and organization-related and the least amenable to generalization. This mismatch between generalized procedural mandates and local situations has resulted in the local governments becoming dependent upon the ordinary level of government and accounts for a large part of the operational discontent about mandating. Lovell (1981) concludes that local governments are likewise becoming more and more policy-dependent on the ordinary level of government.

In sum, the fiscal constraint movement, by undermining the independent revenue base of local government, is providing one more large push toward fiscal dependency. Alongside increased fiscal dependence, the accumulating impact of proliferating mandating activity on local governments is institutionalizing and increasing policy dependence as well. The enlarged fiscal dependence and the loss of policy independence due to the rapid increase in the quantity and scope of mandates is well documented by MacManus (1981). What these implications are for the "capacity" of local governments to meet the needs and demands of the citizens remains a question for empirical study. Enlarged dependence means a great deal if it means the loss of capacity of local governments to respond to local problems and to meet the diverse needs of individual citizens in local communities.

While there is adequate information on fiscal dependency, there is very little data available about the impact of mandating on policy dependency. Granted that the number of mandates is significant and increasing, does this mean that the local governments are "policy dependent" on state and federal governments? The research data that is available is tentative, but indicative. These findings suggest that local governments are being forced to reorder their priorities. Lovell (1981) concludes that mandates reduce the policy space within which local policy makers can operate and thereby force local governments to be "dependent" on policies made by larger spheres of government. The sheer number of mandates adds to the rapid expansion of "policy dependency."

There is a paucity of research which assesses whether the increasing fiscal and policy dependency is good or bad, or whether the apparently

enlarged dependency does, in fact, have a harmful impact on local governments' prerogatives and actions. Neither has the question been answered as to whether the benefits to national goals or targeted populations are worth the price in loss of local government autonomy. These questions can be answered only as the institutional and political impacts of the enlarged dependency are more clearly identified, and understood, and then judged against criteria of what is "good" or "bad." Rather, the question as was originally posed remains valid: Does the substantial and enlarging fiscal and policy dependency matter for the health of local government and for the health of the intergovernmental system?

As was stated earlier, a healthy intergovernmental system is one wherein articulated variety is the norm. The system would be one as we have known it in which various flexible systems of interrelationships are developed without consistent diversion of responsibility or a dominant central authority but with a capacity for joint action. As a part of this system, the healthy local government must be a partner with power of its own and some reciprocal dependence by the ordinate level of government upon it. There should not be any actions which decreases governmental capacity to achieve program objectives, undermines governmental accountability to citizens, or public trust in government.

In brief, the healthy local government must have the capacity to respond to local problems and to meet the diverse needs of its individual citizens. It must have sufficient autonomy and capacity to enter into new bargaining and relationships on behalf of its citizens as new possibilities are generated. Whether the enlarged

fiscal and policy dependencies described here are limiting or destroying autonomy and capacity of local government, when defined in these terms, is the question that must be answered.

Territorial Democracy

To provide the closest approximation of democracy and to have elected officials as responsive as possible to their constituents have always been considered as prime democratic principles. This commonly accepted concept is often termed "Territorial Democracy." Local governments are especially organized around geographic or territorial units. This facilitates the mass of the people in their efforts to enjoy strong individual powers and rights and to exercise control over their representatives. In this way, citizens are allowed to erect barriers against direct popular control of the ordinary level political apparatus and are provided maximum participation in the decision-making processes at all levels of government.

The county, with its political subdivisions, is geographically the most universal jurisdiction of local government in America. In the absence of urbanization, the county most likely becomes an important core of grass-root government and community. Since there are more than 3050 counties in the U.S., the counties bear testimony that Americans have been largely a people of rural birth or heritage despite the present high proportion of urban population. Unlike cities, they are not incorporated, and unlike states, they have no sovereign powers. Its governing board is both a policy-making and an administrative agency.

Professor W. W. Crane (cited in Grant and Nixon, 1963) states in his "Reflections of a County Board Member" that county board meetings were regarded as a "process of ratifying fate" with little or no discussion of significant items. This probably accounts for his assertion that "federal government and state grants-in-aid had resulted, in effect, in the abdication of county control over welfare and highway programs because of non-discretionary regulations prepared in state and national capitols" (p. 300). Professor Crane offered the following advice to America: "It is essential that local units be preserved as political communities in the larger context of American Democracy" (p. 300).

Several noted authors have commented on the validity of the territorial democracy concept. Daniel J. Elazar (1984) states that "the basic pattern of political organization in the United States is territorial" (p. 47). This implies that people and their interest groups gain formal representation in the councils of government through the location of various interests in particular places and their ability to capture political control of territorial political units. Samuel H. Beer (1978) argues that territorial democracy was part of the original design for federalism, and is serving an important representative function today. It allows subordinate governments to exert a direct influence on the ordinate level of government, even in programs where authority appears to be highly centralized.

The key aspect of territorial democracy is that each and every citizen must have the opportunity to have his preferences weighted equally with those of other citizens in the conduct of government. Dahl (1972) identifies seven requirements that must be met in order

to fulfill this obligation; but all of these requirements would come to naught if the officials that actually made the policies of government were constrained to the extent that policies adopted were unresponsive to expressed preferences of the citizens.

Alexis de Tocqueville (cited in Dahl, 1972) asked the question: "How, if at all possible, can liberty and democracy be maintained in a society of equals?" (p. 223). His fear was that there are no institutions or classes of people with enough power to prevent the rise of a despot. His hope was that Americans had developed substitutes for the political functions of an aristocracy as an offset to tyranny. Among these constitutionally created barriers were the federal system and the tradition of self-government. If the right of self-government is diminished, the feasibility of tyranny is increased.

The "Loss of Autonomy" Debate

By its very nature, the mandating issue is distinctively intergovernmental. Some observers feel that mandating and the rise in intergovernmental relations can be traced to the Dillon's Rule interpretation of state-local relations. The essence of this argument is that as a consequence to the rejection of inherent self-government there was established extensive legislative control over the details of local government. At its peak, this resulted in a situation where state legislatures passed innumerable special acts governing the mundane affairs of individual municipalities and counties. Although state constitutional amendments limiting the prerogatives of legislatures to pass the special legislation and the granting of home rule status to many local governments have

significantly curtailed the legislature's power over municipalities, and to a lesser extent counties, much of the power remains, particularly with respect to finances and to matters of statewide concern.

The exercise or nonexercise of this state power over local government has direct and sometimes dramatic effects on county and municipal budgeting, expenditures, and allocation. The most direct and dramatic effect is accomplished through the mandating of certain activities. For example, the state legislature or constitution may require a local unit of government to provide certain services regardless of local interest or local finances.

Local governments are also viewed as laboratories of experimentation, being the governmental level closest to the people and their public sector problems. Units at this level are considered to be in the best position to respond in flexible and diverse ways to these localized problems. To the extent that local expenditures and/or revenue decisions are mandated - that is, beyond the control of local elected officials - this flexibility is constrained. And this constraint becomes more extensive, and divisive, when state initiatives are not concurred in by the local sector. Coupled with inadequate state funding, or non-funding, of such initiatives, an intergovernmental friction point is established.

The argument pertaining to the loss of local control is probably the most frequently voiced criticism of mandating. Although "home rule," at least in concept, would obviate many of the objections to mandating, in actual practice there is little evidence to support this claim. For example, the Wisconsin Council on Local Affairs (cited in ACIR, 1978) has stated:

...the state is continually pressured by various interest groups, large and small, to mandate that certain procedures be followed by all cities and villages in the state. The state must carefully consider the extent to which state intervention in such matters - reasonable as it may appear in many instances - undermines the concept of home rule, impedes the fixing of responsibility, and frustrates the goal of local accountability.

It would be highly desirable if the state could achieve a reasonable degree of equity in financial resources among the various communities of the state and then expect that mandated statewide services be financed by state revenues and strictly local services would be financed by local revenue.

Unless such an effort is made, it appears likely that the concept of home rule will become increasingly meaningless in the future. (p. 21)

Thus, the decision on home rule is still pending. While it offers many benefits in support of the territorial democracy concept, it does not provide adequate safeguards against irresponsible mandating.

Opponents of mandating also stress a second point - that mandated programs are frequently adopted with little or no information as to the costs being passed on to the recipient government, or the tax burden that is required to provide these services. For example, the ACIR (1978) study reports that in Pennsylvania, the League of Cities asked for \$50 million to help local governments pay off unfunded liabilities in their retirement systems. The legislative director of the league stated the problem thusly: "We (the cities) didn't get into this trouble by ourselves; succeeding legislators and Governors all had a hand in liberalizing benefits without knowing the costs and creating abuses in the administration of the pension laws" (p. 11). There are some times when there is no revenue authority available; the only recourse is displacement. Lacking this cost-consciousness and an awareness of the attendant effects on local property tax rates, sponsors of mandated programs are ill-equipped to balance off benefits against costs. State-mandated programs appearing reasonable and

worthy to their proponents can, at the same time, be viewed as too expensive or of lesser priority, at least to some local officials. Facing some combination of unmet needs, restricted revenues, differing priorities and public hostility to government in general, locally elected officials are increasingly reluctant to take on mandated programs, initiated by a different governmental level, which they consider to be less informed regarding the particular local situation.

Resistance to these views, however, is strong. The claim of local autonomy or the erosion of local control is held to be more of a slogan than a considered assessment of contemporary problems of the public sector. Those holding to a Dillon's Rule viewpoint look upon mandating as a perfectly legitimate tool for meeting public sector problems, particularly those where there is a statewide interest or impact. The contention of this group is that mandates are initiated to spur governmental activity; and they are defended as a mechanism to stimulate actions that, because of benefit "spillovers," may not be fully perceived by representatives of particular jurisdictions. Mandating, then, is held preferable, at least by some, to a "do-nothing" or "do-less" philosophy of government. While the mandated activity may not be in accord with the priorities of the affected governments, it is precisely the desire of providing more, or more uniform, levels of service over a broader geographical base that leads to state mandating.

Accountability

Fiscal Accountability

Acknowledging that local governments face continuing - or even worsening - fiscal problems, few proponents of mandating concede that

this is traceable purely and simply to mandating. This pro-mandating argument is further supported by pointing out that there are few functions that are the exclusive concern of one governmental sector. Mandates for such functions as fire, police, sanitation and sewage disposal, generally considered to be "heavily local" in terms of benefits received, are justified on the grounds that such services do result in benefits to property owners. Thus, they are viewed as a legitimate charge against the local property tax even though the statewide interest in the particular mandated program is not clearly apparent. Mandates in the areas traditionally considered intergovernmental - education, welfare, highways, health-hospitals - are deemed appropriate because of the statewide interests. Since such programs fall squarely within the bounds of the state prerogative, at least in the view of the advocates, there is little compunction involved if local financial stress necessitates a reordering of local priorities.

But is this a valid argument? MacManus (1981) found that mandating does indeed have significant fiscal consequences. What is so often overlooked is that there are hidden costs involved. Specifically, MacManus found that: (1) where cities are subjected to nonproperty tax constraints, these cities were unable to cover rising costs by increasing the tax or by issuing general obligation (property tax backed) bonds because of politically-based pressures not to do so; and (2) where both service mandates and nonproperty tax constraints are imposed on municipalities by their state governments, the likelihood of fiscal decline increases. The first finding can be directly related to the effect of "taxpayer revolts" where imposed constraints limit policy choices. The second finding illustrates the problems of "unlimited demands and limited resources."

Peterson (1981) points out that cities are limited as to their policy choices. And policy has a direct relationship with fiscal consequence. Specifically, local governments must have the power to tax their citizens in order to provide those services which are necessary and appropriate. And herein lies a major fallacy in the pro-mandating argument. Local governments receive their revenues from a variety of sources. These local governments also are recipients of a variety of constraints. In many instances the state mandating agency does not take into consideration the indeterminate nature of the federal grants that are received by the local government. And this is a major segment of the available revenues for most local governments. When constraints are emplaced this variability of the federal grant is not properly considered and the local government is left without a source of revenue to replace any decrease in these revenues. A corollary to this problem, and one that is pointed out by Peterson, is that where a local government is dependent upon centrally controlled and determined grants, then that government has little responsibility for the well-being of the community. Without the needed independence from central resources, local government loses the capacity to act responsibly on its own behalf, and thus becomes simply an agent of the ordinary level of government.

The hidden factor in fiscal accountability is the extent to which states impose some sort of limitation on local taxing and spending. The forms of these constraints are well-known; the implications on fiscal accountability are less visual and understood. Henry J. Raimondo (1983) argues that the case for these limitations is overstated. Raimondo concludes that where the case is sound, it is not

obvious that the limits will solve the problems. In addition, any limits program has major implementation problems which raise doubts as to its effectiveness and equity. Certainly, there is a need for improvement in management of local government. But the imposition of limits fails to address this need and temporarily distracts attention from it. State-imposed limits offer the promise of a reduced tax burden to a group of angry, frustrated taxpayers. However, the problems that they create and, more importantly, ignore, make that promise seem empty.

Political Accountability

One important aspect of the mandate issue is the political accountability set of concerns. The idea of accountability, one of our most cherished democratic notions, assumes that "the public" should be able to hold public organizations answerable for what they do and should be able to control their policies and behaviors. Traditionally, in American political theory, accountability has been operationalized by the concept of "overhead democracy" and is grounded in the notion of electoral representation. Overhead control emphasized formal, usually hierarchical techniques for controlling the actions of administrators and their employees. Under this theory, integrated units of administration, linked in a single line of responsibility led upward to the chief executive who in turn was responsible to political direction through elected officials. While accepting the centrality of overhead control, democratic theorists in this stream have prescribed certain other institutions which must work with overhead controls to guarantee accountability: a free press, administrative law guaranteeing openness and rights of redress to individuals, and equal protection backed by the courts.

In today's complex, highly interdependent, intergovernmental setting, where a majority, perhaps, of the actions of local governments are taken as a result of mandates from the state or federal level, mechanisms for achieving accountability become difficult to identify or understand. In mandate situations, where the local government is not responsible for what it does or for the way that it must do it, accountability becomes blurred and impossible to place. Local publics cannot hold their local officials responsible for the mix of services the local government performs or for the allocation of resources in the local budget where mandates are prevalent. If as much as fifty percent of a city budget is mandated, who does the city hold accountable for the actions of that city? How does the public differentiate among the activities the city performs on orders from the state, what the city does on orders from Congress and federal administrative agencies, and what it does on its own initiative? Even if city or county officials would, in the absence of a mandate, support a certain expenditure or oppose a certain program, their true position is difficult to know. The situation is muddled and leaves much room for ambiguity.

Clearly, traditional notions about how accountability can be achieved are no longer applicable where pervasive mandating is a fact of life. Even without mandating, governmental inter-dependencies require that policies be hammered out in the interplay among organizations. Numerous intergovernmental structures become the decision arenas and individual administrators and elected officials must be given a great deal of flexibility to negotiate the decisions they deem possible. In those cases the officials can at least be held

"accountable" for their skill as negotiators and for the values they attempt to advance in the negotiations. In the mandate situation the local official has lost even that chance to bargain and can be held accountable only for the coping strategies used to adjust to mandates and the grace with which mandates are accepted and operationalized.

Lovell and Tobin (1981) argue that the political-institutional issue that underlies the "mandate issue" pertains to particularization versus standardization. As we have seen, increasing numbers of problems seem to demand attention at the ordinary level of government, yet the subordinate level must achieve solutions. Localities and their constituents, however, differ markedly from place to place. We thus find counteracting pressures for unity and diversity, for integration and differentiation. In the main, it is true that mandating, as a vehicle for standardization, does not lend itself to differentiation or diversity. Mandates written for general application do not necessarily fit particular situations. Mandates promulgated at a broad system level cannot take into account the individual differences among localities and differences in the needs of the various individuals. Local governments must struggle with general rules and bend them to fit particular situations.

Summary

Then where do we stand as to the exercise of democratic control at the local government level? Given that the process of mandating, by definition, imposes a requirement or constraint on the recipient government, then to the extent that that imposition causes any degree of activity by the local government there is a corresponding decrease

in its ability to exercise democratic control. There can be little doubt that mandating causes a loss of autonomy; that has been documented. Such loss is at serious odds with the concept of territorial democracy. It is also in disagreement with the federal idea as envisioned by Rockefeller. It makes a sham of the long-established notion of overhead democracy.

It is axiomatic that control follows the flow of resources. As such, it is clear that democratic control at the local level of government is exercised from a variety of sources. There is little evidence to indicate that any significant amount of non-local resources are made available to local governments that do not contain "strings" sufficient to insure that the policies of the mandating level of government will be carried out if the funds are accepted. If this is accepted as a true statement, then fiscal responsibility is to the office that made the resources available. Consequently, local officials are not responsive to local constituents: they have defaulted that responsibility in favor of the role of an administrator. The result? Local populations are not being represented in the manner that is contemplated by the electoral system of the United States, or as envisioned by advocates of the doctrine of territorial democracy.

This is not to condemn the mandate system outright. There are many justifications for its proper usage. But it should not be the controlling factor which determines the operational capability of the provider of services. It should not be the factor that distorts the electoral process by emplacing barriers to the extent that fiscal and political accountability is not self-evident.

In sum, if we must assume that ordinate level policies must be turned over to subordinate levels for implementation, then the challenge for the mandating administrator is to find ways to issue these program mandates without dysfunctionally constraining implementation initiative and ingenuity. It is an old challenge but one that must be readdressed in light of the current exponential growth in mandates.

To some, the mandate issue will continue to be a federalist question - protection of the autonomy of the local governments by encouraging diversity and avoiding the force of mandates. For others, the issue will be primarily organizational - how to achieve universal purposes by mandating programs to local governments in a way that makes sense for the local situation.

CHAPTER VI IMPLICATIONS OF MANDATES ON LOCAL SERVICE DELIVERY

Causes

Introduction

Local governments are perceived by their constituents as the provider of public goods and services. It is to this element of government that citizens express their needs and demands. It is the officials of these local governments that have the responsibility to provide services that satisfy these needs and demands. Inherent within this notion is the necessary authority for elected officials to determine the policies, procedures, and organizational structures incident to the efficient and effective provision of these services. Such is the traditional role of local government as envisioned by the territorial democracy concept.

But there is a second aspect to the territorial democracy concept. That aspect entails the presence of a local service delivery system. While such a system must of necessity have the aforementioned components of government, it must also have the resources to satisfy these requirements for public goods and services. For government, in its fiscal mode, is an organization whose purpose is to collect revenues and to spend these revenues in accordance with collective needs and demands of its citizens. Thus there is a correlation between the perceived

requirements for public goods and services, the collection of revenues, and the satisfaction of these needs and demands. In essence, the local service delivery system must be capable and suited to fulfilling this second set of criteria. It thus becomes the operative element by which local officials carry out their roles and responsibilities.

Mandating, by its definition and demonstrated results, alters this basic concept. As to whether these imposed changes are "good" or "bad" is a value judgement. However, the manner by which mandates are imposed is subject to considerable debate. In the case of mandates that are imposed by judicial decree the imposition results from an interpretation of the constitution and applicable statutes pertaining thereto. Although the appropriateness of mandating through this manner can be argued, as has been by Elazar (1984), that argument is beyond the scope of this study. This point must be conceded even though mandating by judicial decree has had the greatest impact upon the operational capabilities of local governments.

But there are many other areas of mandating that create significant implications upon the capacity of local governments to fulfill their traditional role as the provider of public goods and services. In the previous chapters the scope of mandating was established, as was the implications of these actions upon pertinent concepts associated with the system of democracy found in America. The remaining question, and one which now must be addressed, is the implications of mandating upon the local service delivery system.

The Delivery System

All societies have needs and demands. In some societies these requirements for public goods and services are more visual, more

prevailing than in other societies. What makes this possible is the mechanism, whether formal or informal, by which the local population makes these requirements known and the governmental apparatus that is available to satisfy these perceived needs and demands.

The concept of territorial democracy envisions a system of local government that is responsive to the expressed needs and demands of its constituents. Historically, these needs and demands were based on the need to survive. But as society changed, so did the perceived requirements for public goods and services. Today many of these needs and demands are considered to be "entitlements," not mere requirements. And herein lies the crux of the problem confronting local governments and the delivery of public goods and services.

There are three basic components required for an effective, efficient delivery system. First, the local government must have a policymaking capacity. It is the role of this governmental function to ascertain the requirements for public goods and services and to develop and implement policies pertaining thereto. Such policy implementation must of necessity include attainable goals and objectives. Inherent within this function is the provision of required funding for accomplishing the stated tasks. Second, there must be present a capacity to establish processes and procedures to operationalize the developed policies. Third, and last, there must be an organizational structure suited to the tasks involved. Together these components constitute a service delivery system.

A delivery system can be emplaced at any given level of government. However, there is considerable doubt as to the merit of interspersing

these components of the delivery system among varying levels of government. It violates a basic principle of management, that pertaining to unity of command. Where policymaking is a responsibility of the ordinary level of government and the organizational structure tasked to carry out the program or activity is at the subordinate level there is a distortion of roles and responsibilities. The autonomy of the subordinate level of government is eroded and it assumes the role of a field service element such as that of a unitary system of government. Thus it is argued that the local service delivery system must possess the capacity to determine the local requirements for public goods and services. Given this capacity, it follows that this system will be able to develop processes, procedures, and the organizational structure best suited to meet the expressed needs and demands of the local population.

In sum, it is the role of local government, through its service delivery system, to provide public goods and services in accordance with the collective needs and demands of its constituents. Altering the components of the delivery system diminishes the capacity of the local government to perform this role.

There are many factors that exert an influence upon the local service delivery system. It is argued herein that the most significant of these is overload. It is this factor, and some of the causes thereof, that must now be addressed.

The Overload

Walker (1981) argues that the current delivery system is overloaded and that this overload extends to virtually every aspect of local government operations. It is argued that mandating is the principle cause for

this overload. It is further argued that there is a correlation between the level, scope, and range of mandating and the multiple developments in the fiscal assistance area. This influence has been institutionalized through the concept of grants-in-aid with their inherent strings which condition the utilization of these revenues by the recipient local government. The magnitude of the problem was confirmed by Lovell et al. (1979). The concern of the local officials was demonstrated by the ACIR (1978) study. There can be no question about the significance of the grants-in-aid programs upon the service delivery system. What can be argued is the implications of the resultant change.

Walker (1981) argues that the servicing and delivery systems of local governments have been heavily affected by four fundamental trends in federal assistance that have occurred during the past twenty years. These trends are characterized as:

1. The spread of direct federal relationships with more and more state agencies and nearly four-fifths of the nation's 80,000 localities becoming directly involved;
2. the emergence of a tripartite assistance package composed of categoricals, block grants, and general revenue sharing;
3. the increase in the quantity of programs that are aided; and,
4. the many facets of "creeping conditionalism," which combine to provide a vast concept of intergovernmental administration that is to be promoted through the grant system with national administrators being in the overseer role.

Given that Walker's assessment is valid, and the preponderance of evidence so indicates, it is easy to visualize the rationale for

asserting that the grant-in-aid concept has had serious implications upon the service delivery capacity of local governments.

The key question involves roles or functional assignments. What level of government is best suited and qualified to perform the given service? Inherent within the determination of the appropriate level lies the notion that policymaking should accompany the implementation and administration of the service provision. It is argued that the current intergovernmental relations concept of operation does not follow this notion. Given that some 80,000 local governments were eligible for grant-in-aid from the federal government plus an unknown quantity of assistance from state sources it is no wonder that the delivery system is overloaded. Thus the initial trend cited by Walker (1981) appears to be on track: direct federal relationships with servicing units fails to provide proper consideration to the capacity of recipient jurisdictions to effectively implement stated goals and policies.

The second trend cited by Walker (1981) addresses the fiscal consequences of massive assistance. This aspect of mandating has been studied to a greater extent than any other aspect. And invariably the findings have indicated two serious deficiencies that can be associated with massive assistance programs. First, there is a distortion of the decisionmaking processes at the local level, both fiscally and programmatically. This is clearly illustrated by a study that was conducted by the Rand Corporation (cited in ACIR, 1978) following the passage of Proposition 13 in California. This study found, contrary to that which was expected, that local governments were effecting cuts in non-mandated functional areas. This indicates that the mandated

areas had been internalized into the system to the extent that these forces were able to resist reduction more so than the traditional areas. Second, there is a dependency cycle established as pertains to the expectation of receipt of these non-local revenues. Lovell and Tobin (1981) argue that this dependency currently exists as pertains to fiscal aspects and that evidence is becoming available which indicates that the same is true as pertains to the policy arena. And MacManus (1981) found that this fiscal dependence has rather serious consequences as pertains to the financial condition of the municipality.

Had these changes in concepts been applied in a planned, systematic manner their consequences might have been different. But as Walker (1981) indicates in his third trend, there was a rapid expansion in the number of aided programs. And Lovell et al. (1979) found that there is a correlation between the quantity of grant-in-aid programs and the number, scope, and range of mandates being imposed upon local governments. In many instances the recipient governments were not prepared to participate in programs mandated upon them, nor did they desire to participate. But the cost of not participating was prohibitive. This resulted in local governments being called upon to deliver public goods and services in accordance with schedules set by the ordinate level of government, schedules that were set to satisfy non-local goals and objectives rather than locally determined needs and demands.

But it is the funding of services, not the performance thereof, that creates the most serious problem. And in today's intergovernmental environment funding at the local level is almost always a matter of intergovernmental fiscal transfers being intermeshed with own-source revenues. As a consequence, it is virtually impossible to ascertain

whether the intended program goals are accomplished--or what portion of the program is funded through local resources. Non-local revenues are most often considered to be "fungible" and their identification tends to become lost in this intermeshing. Given the magnitude of the non-local revenues involved the problem cannot be considered other than significant. And as has been indicated by Walker (1981) the trend is upward. Consider the data at Table 6-1. Clearly there is an increase in the role of federal revenues at the local level. With the ratio of federal funds to local taxes exceeding one-third, as is indicated for cities, it is axiomatic that the authorizing agency or agencies attached conditions-of-aid to the utilization of these resources by the recipient governments. And if local revenues have become intermeshed with non-local revenues as argued by Lovell (1979) then it follows that these revenues are being utilized to support the program goals that are mandated by the conditions-of-aid. In this respect it must be conceded that the local government is performing an administrative function for the ordinate level of government.

The final trend cited by Walker (1981) pertains to "creeping conditionalism." This aspect of the mandate issue is perhaps of greater potential concern than any other due to the relative increase in the number of mandates that are being applied horizontally as contrasted to the vertically applied ones. These mandates are crosscutting in nature and have implications on a variety of programs. Although some mandates of the category (such as Davis-Bacon Act requirements) have been around for many years others such as those that have been promulgated by EPA and OSHA have gained prominence during the past decade. This is not to argue the merits of the action but rather to point out

Table 6-1

Federal Aid as a Percentage of Local Government Taxes and Own Source General Revenues, by Jurisdictional Category, 1957 and 1978

	1957		1978	
	General Revenue		General Revenue	
	Own Source	Taxes	Own Source	Taxes
Counties	1.2	1.5	19.2	27.7
Cities	1.4	1.8	25.0	36.8
Towns	0.5	0.5	13.1	14.9
School Districts	2.3	2.6	3.7	4.2
Special Districts	8.9	26.1	34.0	150.0
All Local	1.9	2.4	17.5	24.1

Note. From Walker, 1981, p. 189.

that there are significant costs involved. The question becomes one of what level of government should bear these costs. The problem is compounded by a number of factors. First, it can be argued that local governments are the least suited to generate the required revenues. The historical source of revenue at the local level is the property tax and this is a rather non-elastic source. Local officials can "go to the well" only a limited number of times as was demonstrated by Proposition 13 in California. The tax relief attitude indicates that these taxpayers feel that the property base is contributing a disproportionate share to the overall cost of government. Undoubtedly, this has contributed to the rise in user fees as a means of generating revenues; this device now exceeds the property tax as a basis for local revenues. Second, as was found by the ACIR (1978) study, local officials are of the opinion that mandates without some reimbursement is unacceptable. While some of these horizontal mandates do have spillover benefits, this does not negate the validity of the argument of the local officials. For in too many instances these officials simply lack the revenue authority by which revenues could be generated to finance these mandates. The alternative is displacement, or the re-ordering of priorities.

In sum, this overloaded system requires local governments to provide public goods and services in accordance with the goals and policies of an ordinate level of government in lieu of programs and activities based upon the expressed needs and demands of the local population. This is accomplished through the grant-in-aid device. It distorts the policymaking processes and denies local governments the right to bargain on behalf of their constituencies.

The Political Process

It cannot be denied that the federal system within America has undergone significant change. Some would argue that this change is drastic in scope while others contend that it merely represents the dynamic nature of government in America today. The result is appropriately referred to as a system of intergovernmental relations. To arrive at the current status, it was necessary that there be some change in the conceptual, judicial, fiscal, and servicing areas of governmental operations. Walker (1981) concludes that this has resulted in an "increasingly overburdened and dysfunctional federalism wherein intergovernmental relations have become more pervasive, more expansive, less manageable, less effective, and above all less accountable" (p. 225). The cause of this is traceable to the political process and, as Walker states, is demonstrated by the fact that federal intrusion is now a top agenda item among governors, state legislators, county officials, and mayors. The ACIR (1978) study indicates that this view is applicable to state intrusion on the local level as well. Lovell and Tobin (1981) conclude that the problem is universal in nature but that it is compounded at the local level due to state imposition of mandates over and above those contained in federal directives. In sum, there appears to be a lack of explicitly determined and assigned roles and responsibilities. And that is a function of the political process.

This problem was identified by William Carey (1968) as the "gap between policy design, program definition, and effective delivery" (p. 23). Roles and responsibilities need to be determined by elected representatives. To do otherwise destroys the concept of territorial

democracy. They should not be set by judicial decree; nor by administrators. They should not be set through default on the part of elected officials. Simply stated, the system must facilitate the determination of proper roles and responsibilities by elected officials. And the electorate must become sufficiently involved to insure that these elected officials carry out this function. Such is the function of the political system.

Implications

A Role-based Mandate Typology

One does not have to look far to determine that mandating has caused a negative impact upon the capacity of local governments to provide public goods and services. The local service delivery system is in trouble in too many instances. The argument is made here that a major portion of these problems is traceable to the imposition of non-local goals and objectives upon the local service delivery system. Such an argument can be defended best through the use of a mandate typology designed to portray the impact that a given type of mandate has upon the role and responsibility of the recipient local government. Table 6-2 reflects such a mandate typology.

The actors for the mandate typology are state government and local government, or, in more general terms, an ordinate level of government and the subordinate level of government. The ordinate level includes the state legislature; the executive and judicial branches; and the administrative agencies of the state. The subordinate level of government includes municipal and county jurisdictions. The typology used revenue source and operating jurisdiction as criteria for categorization of mandating activities. It must be noted that examples cited illustrative and are non-exclusive in nature.

Table 6-2

Mandate Typology for Local Service Delivery System

Type 1: Ordinate-funded; Ordinate-operated

Examples: Revenue collection (e.g., sales tax); Driver licensing; Vehicle licensing; Alcoholic beverage licensing; Pari-mutuel wagering.

Type 2: Joint-funded; Ordinate-operated

Examples: Health services; Judicial system.

Type 3: Joint-funded; Subordinate-operated

Examples: Libraries; EMT and ALS services; Transportation for the Handicapped; Mental Health.

Type 4: Subordinate-funded; subordinate operated

Examples: Solid waste disposal; Comprehensive land use planning; Training requirements for Police and Firemen; Employee benefits; Non-contributory retirement system.

Type 5: Other funded; Subordinate-operated

Examples: Virtually all grant programs.

Type 6: Upward transferred functions

Examples:

a. From municipal to county: Taxation and Assessment; Elections; Solid Waste Collection and Disposal; Public Health.

b. From subordinate to ordinate: Municipal court; Law Enforcement; Fire Protection and Civil Defense; Environmental Protection; "Welfare" programs.

Applicability and Discussion

The first category pertains to mandating where the ordinate level of government both funds and operates the function. Typical of this category are those functions which seem to dictate uniformity of action. As to whether the action is indeed a mandate within the definition provided depends upon the analysis that is accorded the action. For example, it is argued by some that revenue collection is best accomplished at the ordinate level of government. But what of the items that are to be taxed and the distribution of the proceeds? Should not local government have an input into these critical phases of the policymaking process? Specifically, should the policies as developed restrict or constrain local governments from the use of these items as a revenue base for generating revenues to meet local needs and demands that were not considered by the policymakers? It is argued here that collection of these revenues at the local level requires locally elected officials to take into consideration the ability of the local economy to support the needs and demands of the community. It can also be argued that collection at the local level reduces that portion of the tax burden that is used to finance the bureaucratic structure. Thus, in this context, these mandates meet the criteria previously provided since they restrict or constrain the capacity of local governments to meet the expressed needs and demands of the local population. Simply stated, these mandates reduce revenue authority--the other side of the mandate issue. It therefore impacts upon the local service delivery system.

The second category of mandates includes those functions of government which are jointly funded by state and local governments but which are operated by the ordinate level of government. The classic

example of this form of mandating is the provision of Health Services. Traditionally, the service delivery element is referred to as the "County Health Department" or by a similar organizational description. But this is a misnomer; it is a state operated function that is located in a county environment to provide services to citizens within a prescribed area. Characteristically, funding for these organizations is on a fixed ratio basis as is the level of participation. For example, the ordinate level prescribes that the county will participate on the basis of three-to-one and then specify the dollar amount that the ordinate level is providing. This requires the local government to provide funding at a prescribed level. Further, the ordinate level will set the policies for the function without any input from the county. (In Levy County, Florida, the decision was made by the state agency administering the program that pre-natal care would no longer be provided within that county; personnel requiring such services would have to travel an additional 30 miles to receive these services). Where local government is denied the opportunity to provide input into the decision-making process undesirable consequences can and do occur.

One other example of the lack of coordination and its consequences bears mentioning. In 1984 the Florida legislature enacted a statute designed to curb the rising cost of medical care. This action, termed the Hospital Cost Containment Act, gives the state the right to monitor the budgets of local hospitals. Those hospital budgets which exceed a set standard would be required to reduce their budget to that standard. But to get this right of monitorship a tradeoff was effected. This act authorizes the state to take a percentage of the gross profits of the hospitals to fund the medical costs of indigent personnel. What was

not considered was the impact that this action has upon the counties. For under the current procedures the county must contribute 35 percent of the cost of hospitalization for all indigent personnel that is incurred after the twelfth day of hospitalization. The act makes no provision for the county to generate revenue to cover this added cost. And since the counties are constrained by various mandates as to the revenue rate, revenue base, and expenditure limit for general funding this forces the county into a position of having to reorder its priorities in favor of the funding for these medical expenses. Again, the service provider was not afforded the opportunity to provide needed input into the policymaking process.

The third category includes those functions which are jointly funded but which are operated by the subordinate level of government. This category would not be significant if it were not for the constant change in policymaking for the programs and activities that characterize this category of mandates. Many of these programs and activities originated in the sixties and as such were federally funded and locally operated. But within the past two decades there has been a gradual downward shift in this funding with the result that today there is a mix of revenues used to carry out the goals and objectives of these institutionalized programs and activities. Compounding the problem are mandates which direct that these programs be administered on a regional basis. As the source of funding shifted toward the local level some of the participating jurisdictions opted not to participate financially. For example, the city of Ocala, Florida, was designated as the provider for library services for a region that included several cities and parts of three counties. As participating jurisdictions

declined to provide funding for the library service, the host agency (Ocala) was placed in a position of trying to determine what services each jurisdiction was entitled to receive since the non-local revenues are fungible to the extent that their origin cannot be determined. Whose goals and objectives must the city of Ocala try to meet? The city must administer a program which is not based upon locally determined needs and demands and has no available means for insuring its success.

The fourth category of mandating is perhaps the most pervasive of the groupage. This form of mandating places a requirement upon the local government and there is no reimbursement for the costs involved. Many of these impositions are justified by the ordinate level of government on the basis that there is a spillover effect which results in a benefit to the local population. This argument is countered by the local governments on the basis that their operations are not conducive to standardization due to the diverse methods used to provide the needed public goods and services. Of particular concern are those actions pertaining to benefits that accrue to certain classes of employees. But there are other areas that surmount this intrusion into local government prerogatives.

Solid waste disposal is perhaps the most bothersome aspect of local government operations. Yet local governments are often left out of the policymaking process for this vital area. In Florida and Pennsylvania the operation of landfills is a county responsibility. However, due to the criticality of the activity, the policies, processes and procedures pertaining to this operation are set by the state. Local input into the policymaking process is virtually nil.

Needless to say, the cost of operation of the landfill must be borne by all residents of the county. But a more perplexing problem has emerged. Suitable land area for landfill operations has become scarce. And most communities do not want such a facility adjacent to its residential areas. Consequently, both as a result of policies which dictate environmental conditions for locating a landfill and public resentment, many municipalities now must transport their solid waste extreme distances for disposal--in some instances this is as much as 65 miles each way.

The crux of the problem lies in the lack of proper coordination and long-range planning. For example, the city of Philadelphia is now faced with a severe shortage of landfill capacity. The city of Easton, Pennsylvania, was notified in August that the landfill which that city uses must be closed by December 31. Cedar Key, Florida must transport its solid waste to a site in the most distant part of the county. This clearly illustrates the need for better coordination among the various levels of government. It also demonstrates the inability of local governments to meet the needs and demands of its constituents when the components of a service delivery system are divided among the varying levels of government. There is no clear delineation of role and responsibility for each of the competing actors for this vital service area.

Closely related to the above is the problem of land use planning. While the concept of comprehensive land use planning is worthwhile and valid, there are those that disagree with the manner by which the intended goals and objectives are being attempted. Within Florida the statute which prescribes the creation of such a plan is objected to on the basis that it is too detailed and intrudes upon the right of

local government to determine its own growth. Again, the argument is that local officials were not afforded the opportunity to provide input into a critical policymaking process. The result is a loss of autonomy and the eroding of the role of local government. Coincidental, the Florida statute changes existing processes and procedures while requiring the establishment of a new organizational structure to carry out the dictates of the state legislature.

A fifth form of mandating involves activities which are funded, in reality, from non-local, non-state sources with policy emanating from the ordinate level and administration by the local level of government. Most grants fall within this category. Essentially, the revenues are appropriated by Congress and conditioned by terms of usage, goals, and objectives. These revenues are subsequently distributed to the states where they are merged with any state contribution and more conditions-of-aid are added. Finally, the merged revenues, conditions-of-aid, and program directives are forwarded to the local governments for administration. It is this category of mandating that has exerted the greatest influence upon the operation of local governments. It is estimated that some \$95 billion of federal assistance will be made available to state and local governments for FY 84. At the local level this will result in approximately 25 percent of the budget of the local government being funded through this device--on the average. But some jurisdictions are far more dependent than others. For example, the budget of Lehigh County, Pennsylvania, for FY 84, indicates that 48 percent of the revenues came from grants. But in Levy County, Florida, grants account for only three percent of the budget. Given that most of these revenues contain some form of condition-of-aid it is apparent that differing

levels of dependency exist among the 80,000 eligible jurisdictions. In actuality, the Lehigh County utilization is multipurpose while the Levy County usage was restricted to the provision of EMT services for the county. This clearly illustrates the different views toward dependency. Lehigh County prefers to spread its dependency across a broad spectrum of services while Levy County prefers to concentrate its share of the federal assistance into an area that is already mandated.

Finally, it should be noted that certain functions have been transferred upward from the local level of government. Most of these transfers were in the "welfare" category of public goods and services, or those that apply to individuals. In most instances these programs and activities were institutionalized as "entitlements" during the sixties and seventies and represent national goals or objectives which are social in nature. Prior to the Great Society era these programs and activities did not represent significant costs. However, today they call for large expenditures. As an example, the Aid for Dependent Children (AFDC) program was virtually nil two decades ago. Today it has a budget of some \$11 billion. Should responsibility for these functions be shifted downward (as has been proposed by some ordinary level officials) the impact upon local government operations would be catastrophic--given the current restraints on revenue authority.

A review of examples cited indicates that most of these transfers have been made in order to facilitate uniformity. It cannot be argued that there is a need for uniformity in many instances. However, in too many instances the final results do not approximate that which was intended or approved. For example, in 1978 an amendment to the Florida constitution was approved by the voters. This amendment removed

all municipal courts from the judicial system and combined the county judicial system with the state judicial system. This new system was to be operated by the state; local governments would continue to receive monies collected by the courts for violations of municipal ordinances. Six years later the system bears little semblance to that which was perceived and approved by the voters. For example, the county bears the preponderance of costs incident to operation of the combined court system. And revenues from the court system are approximately one half of the amounts received under the deleted system. Both of these actions should have been foreseen. Under the new arrangement municipalities have no jail facilities. Consequently, anyone that is arrested must be transported to the nearest county facility for booking. In addition, the arresting officer must appear for the first appearance hearing and any trial that results. Thus the municipality must lose the services of one of its officers and a vehicle for six to twelve hours, and possibly longer. And this requires additional personnel or overtime. Thus it is a cost prohibitive operation and one which has a detrimental effect upon law enforcement in the community, or the added expense of additional personnel. As to the second aspect, it is too easy for the legislature to enact statutes requiring the counties to provide the personnel, facilities, and services needed by the judicial system--the logic being that it is a spillover benefit for the community.

The mandate typology provides a means of analyzing the mandate issue in terms of the correlation between funding source and operating element, and the implication of these variables on the role of local government and its service delivery system. Although mandating can be accomplished in a variety of ways, it is clear that the funding

mechanism is the more prevalent of the devices utilized. By looking at various examples of the categories of mandates portrayed by the typology, it is evident that the intent of the mandating agency is to impose the goals and objectives of the ordinate level of government upon the provider of the public goods and services. The consequences of such actions are: (1) the role of local government in the policy-making process is diminished; (2) there is an altering of the processes and procedures required to carry out established policies; and (3) changes in the organizational structure of the local government are often required in order to facilitate accomplishment of the mandated actions. These consequences might occur singly for either area, or in combination.

Summary

Although the impact of mandating might be positive or negative depending upon ones perspective of the mandate issue, they are negative in terms of territorial democracy. For as stated at the beginning of this chapter, it is necessary that a requirement for the public goods or services be established by the local population. Unless the citizenry perceives a need for the service there can be no determination as to whether a need was satisfied. And it is the local service delivery system that must facilitate this determination. For that system to be efficient and effective it must possess, and be free to exercise, all of the components of the service delivery system.

It is argued that much of the activity that is associated with mandating abridges the capacity of the local service delivery system by denying officials of local governments a proper role in the decision-making process. Without this ability to effectively bargain on behalf

of the local population, local officials too often become administrators of programs and activities that are developed to meet the goals and objectives of the ordinate level of government. And without this vital input from the provider of the services there is a lack of proper consideration as to the capacity of these providers. The result is an overloaded system.

It is argued that a base cause for this overload is the political system. The typology, and the discussion of the examples provided, clearly indicates the lack of proper roles and functional assignments for the competing actors. And it is the purpose of the political system to ascertain and assign these roles. The failure of the political system has resulted in the usurpation of decision-making authority by the mandating agency. Given that this condition exists, it follows that the definition of federalism provided by K. C. Wheare no longer applies.

The implications are evident. The expressed needs and demands of the local population are not being met by the service delivery system. This is not to say that the system is not providing services; it does say that the services are not based on the collective requirements of the local population, or by its duly elected local officials. What is being provided is the result of the imposition of programs and activities by the ordinate level upon the local system. Were this a mere adding to the local requirements these imposed programs and activities would not be so significant provided the necessary funding accompanied the requirement. But in many instances these impositions require the local officials to reorder their priorities in favor of the mandated activity with a resulting displacement of local programs and activities.

CHAPTER VII
THE MANDATE ISSUE REVISITED

Findings

Introduction

This study started as an attempt to evaluate a basic question: What change, if any, has occurred as a result of the mandating activity, and what has been the effect of this change on the operational capability of local government? Thus far the study has addressed, in a normative manner, various aspects of mandating to include the mandate issue, the extent of encroachment, and the implications of mandating upon federalism, democratic control, and the local service delivery system. It is now essential that the findings and arguments be brought into a coordinated perspective.

Operational capability is a deceptive term; it might even defy a clear definition. However, it is necessary that parameters be established. To assert that operational capability, or capacity, exists is to imply that an entity is under the control of a legitimate governing apparatus. Mere supervision does not meet this criteria; nor does administration. To have operational capability the governing apparatus must possess, and be free to exercise, each of the components of government. Anything less tends to distort the capacity to govern

and shifts the governing apparatus toward that of a unitary state. It is within this context of operational capability that the assessment is to be rendered.

The Issue

Any discussion of mandating is a discussion of federalism and the question of overlapping jurisdictions. Mandates are used to impose the will of an ordinary level of government upon one or more of its subordinates. Thus it is a form of regulatory control. Mandating, by its nature, causes conflict between the competing actors due to the lack of a strong central authority. This is not necessarily a detriment to effective governance; it does, however, require that these conflicts be negotiated.

Not all mandates are bad, or good. There are valid justifications for their use under certain specified conditions. The challenge is for the mandating agency to devise a means of getting the goal accomplished without distorting the process of implementation. Even so, there are negative values that can be attached to their imposition. It is the weighing of these relative costs versus benefits that determine if the mandated action is appropriate or not.

The legality of mandating is well-grounded in case history. State supremacy is supported by the concept of Dillon's Rule which decrees that local governments are "creatures of the states." Although this interpretation cannot be argued from the legal point of view, it is open to debate as an equity issue. Equity, simply stated, is that condition wherein benefits equal costs for the participants, individually and collectively. Specifically, equity asks the question: Was the intended outcome achieved? And if so, how was it measured? Equity

raises no qualms as to the need for the public good or service. But it does bring to the fore the question of who should bear the costs that are incident to the transaction.

Mandating has evolved from three principal factors: (1) an increase in the demand for services; (2) pressure from the ordinate level of government to alter existing processes of local government; and (3) a lack of revenue authority at the local level. The end result is that, cumulatively, these factors have caused a certain degree of dependency at the local level. This dependency impacts upon the fiscal capacity as well as the policymaking capacity of the local government. And it raises a question of utmost importance: What is the impact of this dependency upon the health of the local government? This question, along with that which was originally posed, must be answered.

Mandates substitute priorities of the ordinate level for those of the subordinate jurisdiction. The implication is clear; the policymaking capacity of the recipient jurisdiction has been foreclosed. Inherent within the policymaking capacity is the right to establish those processes and procedures needed to carry out policies. And in some instances even the organizational structure is prescribed. Consequently, virtually all prerequisites for a healthy local government have been altered by the action.

It is abundantly clear that ordinate levels of government use the mandating technique to set policy. This accords with the "relativist" point of view. The logic for the utilization of mandating as a device to prescribe policy lies in the concept of spillover benefits. This concept holds that these benefits are universal in nature and are

therefore a proper charge to the taxpayer. While the mandate might appear to be universal at the mandating level, it is difficult to differentiate these benefits at the local level. The fallacy lies in the fact that the assignment of proper roles and responsibilities for the competing actors is ignored. Rather, it tends to muddle the understanding of these facets of governmental operations.

But there is a "purist" point of view which holds that there must be demonstrated a truly significant state-wide concern before the mandate can be justified. The purists also argue that the use of subjective evaluation to determine a state-wide concern must simultaneously address the selection of factors that are used in the evaluation process, and the weights that are to be applied to each factor. Finally, there is the question of accountability; there should be a nexus between the pleasure of new expenditures and the pain of additional taxes. In sum, the mandate must be considered on the basis of who should bear the cost for the mandated activity. Should the policy be imposed through the grant device or by mandate? Significantly, the grant device recognizes the state financing role; the mandate ignores it.

Encroachment

The study addresses four facets of the mandate issue. Initially there is the question of encroachment. Given that encroachment can be defined as any action which erodes, deletes, or alters a traditional role of a subordinate government, two significant findings are apparent. First, mandates impact upon the capacity of local governments to establish priorities for programs designed to meet the needs and demands of the local population. Mandates accomplish this through limiting

or usurping the policymaking role of the subordinate jurisdiction. Second, this degradation of functional assignment must be contrasted to the responsibility of the ordinary level of government to establish programs that are universal in nature. This is readily recognized as a test of functioning federalism.

The magnitude of encroachment is significant. There are some 1260 mandates at the national level, and an average of 660 at the state level. Most of the mandates are vertical in nature but the horizontal ones, perhaps, are of greatest concern due to their increasing rate of utilization and their pervasiveness.

Most federal mandates are administrative in nature and have become a problem due to the infusion of massive federal assistance programs with their conditions-of-aid. State mandates tend to be legislative in nature and are therefore directive to the subordinate government. The acceptance of the federal grant normally requires the local government to do something in a prescribed manner. State mandates require the local government to accomplish a specific activity. The functional areas to which mandates are applied do not vary significantly as to their origin.

It is argued that there is a cause and effect relationship between the increase in mandating and the advent of the Great Society with its massive infusion of funding. For with this revenue came specific policies and guidelines as to the utilization of the funds. Coupled with this set of concerns is the change in relationships between successive levels of government. Of particular interest is the federal-local relations which effectively by-passed the state level. And where the state did become involved there were specific

policies and guidelines applied. As if this altering of traditional systems was not enough, there was added a concept of "regionalism" which was non-jurisdictional in nature; its purpose was to implement policies that were developed at the level of the agency which provided the funding. And in some instances, the Great Society advocated the use of private groups to accomplish the national goals and objectives. Thus it is easy to see the extent to which traditional roles and responsibilities were distorted.

Mandating can be either a requirement or a constraint. A requirement causes the expenditure of funds while a constraint limits revenue generating capacity. Significantly, 84 percent of the federal mandates and 90 percent of the state mandates cause expenditures. Yet the 10 percent that comprise the constraint form of mandates might be the more significant since it is this group that restrict the ability of the local government to generate revenues to finance the mandates that require the expenditure of funds. Where there is a lack of revenue authority the only recourse is the reordering of priorities by the local government in order to accomodate the requirement imposed. This results in displacement--the substitution of ordinate level priorities for locally developed ones. This eroding of discretionary authority has serious implications as to the provision of those public goods and services that were locally developed to satisfy local needs and demands.

There is a significant difference between appropriateness and acceptability of a given mandate. Although an area might be considered appropriate for mandating, the acceptability of mandates pertaining to that area is highly dependent upon the funding that is accorded the action. As an example, solid waste disposal is considered to be an

appropriate area for mandating by most officials of local governments. Yet this area is at the top of the list of mandates that are considered to be costly to the local government. This indicates that the problem is financial, not social. It also brings to the fore the question of relative costs incident to a given mandated area.

Mandates can be very pervasive. This was demonstrated by analysis of one particular legislative mandate that was instituted in the state of Florida in 1980. This act, commonly referred to as the TRIM bill, contains essentially three mandates. First, the bill limited property tax increases. Second, it eliminated a provision of an existing law which required the state to reimburse local governments for any losses in revenues that was caused by granting "senior homestead exemption" to taxpayers 65 years of age or above. Third, the bill required a comprehensive, expensive, and time-consuming approval and notification process.

In sum, this bill:

- a. Places a requirement;
- b. Restricts revenue;
- c. Imposes a constraint;
- d. Changes policy;
- e. Creates new processes and procedures; and,
- f. Requires a new organizational structure.

Can it be denied that these actions diminished the capacity of local population? Hardly.

Thus it is seen that the extent of mandating is massive. Its scope is virtually unlimited. The determination of appropriateness is conditioned by the costs and benefits that accrue. In general, the ordinary level favors the use of mandates as a means of ensuring compliance with

a state policy while local officials consider these actions to be inappropriate unless funding is provided by the mandating agency. In either instance there are implications upon the roles and responsibilities of local governments.

Federalism

The second aspect pertains to the question of mandates and their implication upon the federal system. The key feature of any federal system is that there exists a bargaining capacity on the part of all partners. This distinguishes the federal system from that of a unitary state. This clearly provides the local jurisdiction with certain roles and responsibilities, whether specifically delineated or implied. Mandating alters these roles and responsibilities. It is therefore evident that mandating has contributed to the processes of change that has produced our current system of intergovernmental relations.

The governments of today are very complex in comparison to that which existed at the time of the Constitution was adopted. Significantly, there have been only 26 amendments to that document since its inception. By comparison, the Constitution of the State of Florida dates only from 1968, and there have been 33 amendments to date. There have been a total of 46 proposed amendments on the ballots thus far and an additional nine are included on the 1984 ballot. This reflects the thrust for change that prevails. As a consequence to this perceived need for change to facilitate a dynamic set of concerns, we now have what is more appropriately termed intergovernmental relations. This, in reality, is a new term for federalism. Its characteristic is that of shared responsibilities as contrasted to the Dual Federalism concept. It is this sharing of responsibilities that distorts

the system. Samuel Beer's (1978) classic differentiation of these roles under each concept of federalism illustrates the degradation of policymaking capacity at the local level. Hugh Heclo (1978) characterizes the present system as "government by remote control." David Walker (1981) argues that the cumulative effect is an overloaded system that is dysfunctional and less accountable.

It has been argued by many noted authorities that there was a legitimate need for the change. One basic argument is that of a need for increased professionalism at the local level. However, it is clear that professionalism has been increasing at the local level from the early 1950s until the present. Yet there have been drastic changes in intergovernmental relations during this period. This somewhat negates the merit of the professionalism argument. Granted, there were needed changes in the organizational structures. Likewise there was a need to improve the representational aspects of government. But these hardly justify the scope and degree of change that characterizes intergovernmental relations for the past four decades. The cause must lie elsewhere.

It is argued here that a principal cause of this change in intergovernmental relations can be associated with the exponential increase in mandating that has occurred during the past two decades. Specifically, three causes for the massive change can be cited: (1) urbanization and its increased needs and demands; (2) local governments not being prepared or equipped to perform many of the services that were placed upon them; and (3) a massive increase in federal assistance programs designed to satisfy social goals and objectives. These factors have impacted upon the components of government in diverse ways but the

principal effect has been on the policymaking capacity of local jurisdictions.

Policy choices for local government is limited to a greater extent than they are for the ordinate level due to the fact that these subordinate jurisdictions are part of a larger socio-economic sphere. The policymaking capacity is therefore of utmost importance to the local government; the policy arena is indeed very small. But it is at this level that the capability to ascertain the needs and demands of citizens is located. It is only through this process that public goods and services become legitimized. Mandating alters this policymaking relationship and effectively reduces the policy choices available to the local level of government.

Democratic Control

The third facet of mandating pertains to its implication on the processes of democratic control. There are two key features of democratic control that are influenced by the mandating activity: (1) autonomy; and (2) accountability. Both are traditional concepts inherent within the notion of American democracy. Mandating represents the accumulated history of actions designed to replace traditional values of autonomy with universal needs and demands for equality. The methods utilized by the mandating agency to ensure attainment of its goals and objectives has, in turn, caused a serious eroding of the concepts of accountability. There are several findings that warrant discussion.

First, there is the dependency issue. As federal-local relationships increased, there was a corresponding increase in the range,

scope, and complexity of local government operations. Concurrently, the increased usage of the grant device as a means of imposing ordinate level policies on local government caused these jurisdictions to become more and more dependent upon the ordinate level for both revenue and policy. Of necessity, there was a resultant loss of capacity for self-government at the local jurisdiction. The key point, and one that has been argued before, is that the pervasiveness of mandating has substituted prescription and compulsion for the autonomous negotiating relationship.

The cause and effect relationship is easily explained. Program mandates cause local governments to undertake activities that they would not otherwise do. Procedural mandates require recipient jurisdictions to accomplish a given task in a prescribed manner. These actions impose either a cost or a constraint upon the performing agency. Coupled with these actions are the fiscal constraint measures which restrict the revenue authority of the local government. The pervasiveness of this combination of actions is evident. First, the mandates created a cost that must be absorbed within the revenue authority that was available. This within itself can cause a reordering of priorities and subsequent displacement. But the fiscal constraint denies additional revenue authority. This causes the recipient local government to be dependent upon non-local revenues to accomplish its tasks. And with these revenues come policies that are to be implemented.

Yet there are other implications upon the autonomy of the local government that result from these actions. The mandating activity has caused the local government to be non-responsive to the needs and demands of the local population. Although public goods and services are being

provided, the recipients of these benefits do not perceive them as a satisfaction of their expressed needs. If the role of local government is to determine and satisfy the needs and demands of local citizens, there must of necessity be a determination of these needs at the local level. It is the responsibility of local officials to bargain for the satisfaction of these requirements. Mandating denies this right. Self-government becomes administration.

The displacement of a local need, or the non-satisfaction of that need, often exerts itself in the form of a new requirement. Since the initial need was not satisfied through the traditional methods, this new need will bypass the local jurisdiction in order to become legitimated. This can be through the judicial system, the legislature, Congress, or the administrative bureaucracy. In either instance, this new requirement can, and normally does, result in a new mandate designed to satisfy the need and thereby ameliorate the discontent that prevailed. And the cycle continues with the local government being tasked to provide the service--even though there was a lack of revenue or revenue authority to accomplish the task initially. The local government becomes even more dependent upon the ordinate level since it is now mandated to administer a program or activity that was initially discretionary in nature.

What does this do to the mechanisms of democratic control? A healthy local government must have the capacity to respond to local problems in a positive manner; it must be able to meet the needs and demands of its citizens, individually and collectively. It must have sufficient autonomy to bargain for the satisfaction of expressed needs and demands. For the local government to be healthy there should not

be imposed upon it any action which restricts its capacity to ascertain local requirements, and to bargain for their satisfaction. Mandating causes the local government to be dependent upon the ordinate level, both fiscally and for policy. This dependency significantly reduces the capacity of a local government to exercise its bargaining role. It has lost its autonomy.

Second, there is the issue of territorial democracy. This concept recognizes that local governments are organized around geographic or territorial jurisdictions. The traditional need for this form of organization is cohesiveness. The political structure adheres to this pattern. A key feature of such an organization is that it affords each citizen an equal opportunity to participate in the policy-making process. Citizen views are expressed through the voting mechanism, and through contact with the elected representatives. These collective efforts can, and do, exert a direct influence upon the ordinate level of government.

Mandating tends to circumvent this traditional concept of territorial democracy by usurping the policymaking capacity of local jurisdictions. The device utilized to accomplish this usurpation is the grant-in-aid. The results are clearly evident when the budgets of local governments are reviewed. Functions being performed at the subordinate level are more closely related to programs and activities of the ordinate level of government than they are to the expressed needs and demands of the local population.

The mandating issue is intergovernmental. This brings to the fore the question of accountability under such a system. Regardless of whether the unit of government is "home rule" or not, ordinate levels of

government can and do mandate that certain activities be performed, and in a prescribed manner. This conflicts with the notion that local governments are ideal laboratories of experimentation since jurisdictions at this level are considered to be the closest to the people and therefore able to respond to localized problems in flexible and innovative ways. To the extent that the mandating activity constrains revenue or cause expenditures, that is, beyond the control of local officials, this flexibility is limited and there is a loss of autonomy, or the exercise of fiscal accountability. This loss is most often associated with costs or the tax burden that accrues. These costs might result from a lack of knowledge as to the fiscal impact of the action and, in particular, the transaction costs involved. It might also be as a result of the sheer inability to determine these costs, or the relative cost/benefit ratio. Nonetheless, they are perceived by local officials as actions promulgated by persons that are less equipped to render policy decisions pertaining to their communities and therefore an infringement upon their right to self-government.

Proponents of mandating have a strong counter to this argument. This group looks at mandating as a legitimate means of ensuring compliance with universal needs and demands. Costs incurred as a result of mandates are justified on the basis of spillover benefits that accrue to the taxpayer. This argument ignores accountability, both fiscally and programmatically. Accountability infers that the performing agency be responsible to the electorate for the expenditure of all revenues. Mandating denies or distorts fiscal accountability by imposing costs and expenditures which are beyond the control of local officials.

Accountability is reduced to that of being judged as to how well the program was administered.

The hidden effect that mandating has upon fiscal accountability lies in the imposition of constraints without any certainty that such actions will result in the intended outcome. Conversely, they often create new problems of effectiveness and equity which are subsequently ignored. Such are the characteristics of a complex, highly technocratic society.

The idea of political accountability is one of the most cherished democratic notions and is the fourth point of discussion. Political accountability assumes that "the public" should be able to hold public officials answerable for what they do and to control their policies and behaviors. The idea is operationalized by the concept of "overhead democracy" and is grounded in the notion of electoral representation. Given the highly complex nature of today's intergovernmental relations where the majority, perhaps, of the actions of local government are in response to some sort of mandate, mechanisms for achieving accountability become difficult to identify or understand. Numerous intergovernmental structures become decision arenas. The decisionmaking process has been interspersed among the various levels of government--to include non-elected and non-jurisdictional ones. The role of local government, in a political sense, has been reduced to that of developing strategies to cope with the mandated actions that have been imposed.

It is argued that the political process has failed to determine proper roles for the competing actors and to subsequently assign these roles and responsibilities in a manner that is commensurate with jurisdictional capacity. Intrusion upon the role of local government

is now one of the top agenda items for most, if not all, officials of subordinate levels of government. Simply stated, those roles envisioned by the territorial democracy concept have been replaced by a complex system of shared responsibilities that is void of consistent functional assignments for the competing actors. This effectively precludes political accountability.

Local Service Delivery System

Local governments are the providers of public goods and services. Therefore they must have a delivery system suited to this task. Such a system must possess, and be free to exercise, a policymaking capacity. Inherent within this capacity is the right to establish those processes and procedures needed to implement the policy. It follows that resources and an organizational structure suited to the tasks specified are either in place or are attainable. It is this capacity that is needed to ascertain requirements for public goods and services, and the satisfaction of these requirements. By definition, mandating alters one or more of the components of an effective delivery system.

The traditional local service delivery system was designed to satisfy the perceived needs and demands of the community. That delivery system met the requirements of the community. But with the advent of massive federal assistance programs, the expected outcomes of the delivery system were changed to reflect national goals and objectives.

The principal factor that influences the effectiveness of a delivery system is the composition of its workload and the origin of that workload. It is generally conceded that the present delivery system is overloaded. This overload was caused by the imposition of

requirements upon the system that far exceeded its capacity or operational capabilities. These requirements have been institutionalized through the usage of the grant device and its inherent conditions-of-aid. This has resulted in a complex system that is more administrative than it is decisional.

The key question concerns role or functional assignment for the delivery system. While a delivery system can be emplaced at any given level, the interspersing of the components of such a system among the various levels of government destroys the unity of effort that is required to ensure the effective, efficient delivery of public goods and services.

It was argued that the local service delivery system has been impacted upon in a negative manner by mandating. These impositions have altered the traditional roles and responsibilities associated with delivery systems. The principal feature of this change in role assignment is the usurpation of the policymaking capacity that is required of the local service delivery system. It is axiomatic that processes and procedures must follow the policymaking function. The remaining task for the local jurisdiction approximates that of administering the program and activities of the ordinate level of government. It reflects the degree to which local governments are dependent upon the ordinate level for policy and for revenues.

An assessment of impact was accomplished by use of a typology designed to portray key aspects of the aggregated data. Given that the purpose of the study is to evaluate the implications of mandates upon the local service delivery system, the variables of choice are revenue source and service provider. This facilitates analysis of

the impact that either, or both, of these factors have upon the traditional roles of local government. Essentially, it offers a means of determining if there is a cause and effect relationship between these variables and the capacity of local governments to provide public goods and services in accordance with the expressed needs and demands of the local population. It was found that:

1. Where the mandating agency funds and operates the service delivery system, the impact is upon the revenue authority of the subordinate jurisdictions. For example, the granting of exemption from a given tax, by the mandating agency, clearly restricts that item from being included in the revenue base for the local jurisdiction.
2. Where the activity is jointly funded and the service provider is the ordinate level, the impact is normally a revenue expenditure at the recipient level. The classic example of this type of mandating activity is that of Health Services where the requirement to participate is dictated.
3. Where the activity is jointly funded, and the service provider is the subordinate level, the impact is on role assignment. Activities that fit this category are those that were initially established and funded at the federal level but subsequently have been shifted to a jointly-funded status. This would include such activities as libraries and Mental Health. The lack of a role assignment carries with it the obligation to administer a program that is designed to meet the goals and objectives of an ordinate level of government.
4. Where the activity is locally funded, and the service provider

is the local service delivery system, the implication is clearly a revenue expenditure. Given that local governments are normally constrained as to their revenue and expenditure authority, the mandate will frequently result in a displacement of a locally determined priority.

5. Where the funding is non-state, non-local, and the service provider is the local service delivery system, the implications are multifaceted. Most grants fall into this category. Their implication lies in the conditions-of-aid that these grants contain, and the dependency that their use creates.
6. Finally, there are those mandated activities that have been transferred upward from the local government level to some ordinate level of government. Basically, these activities are those that have become institutionalized as "entitlements." These activities are well-being or social in nature and the extent of participation varies. For example, medical care for indigent personnel is normally funded through federal transfer payments. However, counties in the state of Florida must fund 35 percent of the medical costs that are incurred after the twelfth day of hospitalization.

This analysis clearly indicates that there is a cause and effect relationship between the funding source, the service provider, and the capacity of local governments to provide public goods and services. The consequences of these actions are: (1) the role of the local government is seriously diminished by the loss of its policymaking capacity; and (2), there is a cause and effect relationship between revenue source and the capacity of local governments to provide public

goods and services in accordance with the expressed needs and demands of the local population.

In sum, mandating raises many questions while providing few answers. As a form of regulatory control, it serves its masters well. But are the benefits accorded the ordinate level worth the costs imposed upon the subordinate jurisdiction? More importantly, what are the implications of these actions on the health of the recipient level of government? Given that there is a substantial and enlarging fiscal and policy dependency, it seems appropriate to evaluate the implications of this dependence as to their impact upon specific components of a healthy intergovernmental system.

The foremost characteristic of a healthy intergovernmental system--in this instance, the local government--is the capacity of each partner to bargain for the rights of the citizens involved. Mandating forecloses that option. This is validated by citing only one example. The city of Allentown, PA, recently advertised for bids on ambulances. There were 13 bid proposals received. Of these, nine were disqualified for lack of meeting one of the specifications. That specification called for all vehicles to be constructed on Ford chassis. Why? The city was in receipt of a federal grant that would provide up to \$10,000 toward the purchase price of each vehicle provided the ambulance met certain mandated specifications which included that of a Ford chassis. Thus the right to bargain on behalf of the local population was constrained to the point that the city must accept only vehicles containing the specified chassis or forego the benefits of the grant. This is hardly a choice; the cost of not accepting the grant is prohibitive.

A second characteristic of this healthy system requires that the local government be a partner with power of its own and that some reciprocal dependency by the ordinate level of government exist. This concept is clearly violated by the institutionalization of the regionalism idea. Ordinate level goals and objectives are being implemented through a network of non-jurisdictional organizations. Although these goals and objectives pertain to programs and activities which are designed for local populations, the policymaking process does not facilitate input from the recipients or the local jurisdictions.

A healthy system is one that does not contain consistent division of responsibility or a dominant central authority but does possess a capacity for joint action. Mandating, by its very nature and demonstrated actions, violates this precept by retaining the overseer role while requiring the subordinate level to minister to the needs of the local population.

Flexibility is a fourth characteristic of a healthy system. Mandating does not like flexibility; it prefers that all recipients adhere to a set method of accomplishing a given task or function. Yet it cannot be denied that local governments have the capacity to accomplish a given task in innovative ways if these jurisdictions are afforded the required flexibility.

Finally, there is the requirement that articulated variety be the norm. The essence of this argument is that local citizens have an inalienable right to provide input into programs and activities that are being developed for their benefit. That role, the key element of policymaking, is denied local governments by the mandating process.

Individually and collectively these characteristics of a healthy intergovernmental system are distorted or denied by the mandating activity. The implications are clear. There is a loss of capacity or operational capability associated with mandating. The cumulative effect is a reduction in the capacity of the local service delivery system to provide public goods and services in accordance with the expressed needs and demands of the local population. The extent to which this diminution of capacity prevails at the local level of government requires empirical evaluation. That aspect of this study will be addressed through empirical research of the arguments contained in the following section.

Arguments to be Empirically Evaluated

Argument: The political system has failed to provide clearly defined roles and responsibilities for elements of the intergovernmental system.

A basic premise for the study was that local governments have a legitimate role in the delivery of public goods and services. This notion is clearly inherent within the concept of territorial democracy. This right of self-government applies to some 80,000 jurisdictions in some form or other. To deny either of these jurisdictions a role in the determination of those public goods and services that are to be provided to them is tantamount to disenfranchisement of the citizens of the affected communities.

But what of these roles? There are many that view the role of local government as trivial in comparison to the social and economic problems of today. It is argued here that acceptance of this view has non-trivial consequences and accounts, perhaps, for the emerging

role of the mayor as "beggar-in-chief for non-local resources." Proponents of this view argue that the solution to the ills of the cities is more money. But one only has to look at New York, New Haven, or a host of other cities to see that money alone is not the solution to the problems of local governments. The lessons of American foreign aid are equally valid when applied to attempts to solve local governments' problems. The basic fallacy lies in the inability of local governments to increase its productivity due to the politics involved.

It is argued that the political process has contributed significantly to the declining role of local government in the intergovernmental relations arena. This has been accomplished by actions, political in nature, which have distorted the traditional role of local government. It is the political process that has decreed that locally determined priorities be subordinated to those of the ordinate level of government. It is the political process that has instituted new and non-jurisdictional organizational structures to ensure that its programs and activities are successful. It is the cumulative effect of the political processes that has caused the concept of intergovernmental relations to be so altered that the average citizen does not understand its workings and areas of responsibility. It is the political process that has altered the role of each level of government. And the operative element by which most of these changes were instituted is the mandate.

Argument: Government by negotiation has been replaced by government by mandate.

If K. C. Wheare's (cited in Reagan, 1972) classic definition of federalism is accepted, the argument can be reduced to two points. First, there is the question of dependency. Wheare states that the "regional and general component are each, within a sphere, coordinate, and dependent." Mandating, by its nature and demonstrated action, alters the dependency relationship; the ordinate level imposes its policies upon that of the subordinate level. Given that government today is characterized by a system of intergovernmental relations or shared responsibilities, the two components cannot be "coordinate, and dependent." Further, Wheare states that neither of the components has the power to override. This is an emphatic statement of the requirement that there be bargaining and negotiation between the two components. Conditions-of-aid do not facilitate bargaining; it fore-closes the right to negotiate.

Second, Wheare (cited in Reagan, 1972) concludes that the system must possess sufficient economic resources to support both components and that the regional government must be able to finance itself. This inability of the subordinate levels of government to finance their needs and demands was the catalyst that precipitated the massive assistance programs. While there are many ways available to the ordinate level of government to provide this needed assistance to the local government, the method adopted was one that would ensure the accomplishment of ordinate level goals and objectives--the grant-in-aid device. This device centralizes the policymaking process at the level of the appropriation. It is clear that the economic system was sufficient to support both components. It is equally clear that the fiscal assistance provided to local governments was constrained in such a manner that

acceptance of the aid was tantamount to a declaration of dependency. The traditional role of the local government as official bargainer on behalf of the local population no longer existed for those programs that were being funded by the grants.

It is conceded that intergovernmental relations is a dynamic process that is effective in solving social problems. But is the cure to problems that erupted in the fifties and sixties worth the losses that have been incurred? Shared responsibilities is but another way of saying that the ordinate level of government has institutionalized concurrent power at subordinate levels of government. The mechanisms of change--administrative actions, legislation, and court decisions--are used to impose ordinate level standards where community priorities once prevailed. Our society no longer questions the legality of the issue; the deciding factor is the policy that is to be implemented. The grant device has been utilized to ensure that these ordinate level standards are implemented in an efficient and effective manner. It is argued that this assumption--the need to do something in an efficient and effective manner--is not sufficient to require the sacrifice of the original need to compromise, to bargain. This interspersing of component functions among the levels of government, the setting of policy at the ordinate level with implementation at the subordinate level, adds an element of complexity to the political system. Thus a continual conflict exists as to power and leverage, within any given area, at any given time.

The argument for change being necessitated due to the lack of professionalism is moot. Given that there was a need for improvement in management at the lower levels, the techniques applied to solving

these problems were inappropriate. The grant device recognizes the superior ability of the government to minister to the needs of the community. Is it not true also that these same individuals have the capacity to ascertain the needs and demands of the community? Lovell (1979) concludes that local populations do indeed have the capacity if they are given the required flexibility.

The problem is more appropriately addressed in terms of what is expected of the local government. Given the traditional role, local government is capable of providing traditional public goods and services. However, when this same local government is mandated to provide new public goods and services there is a need to allow that jurisdiction the flexibility that it needs to develop the required expertise. And most importantly, there must be a perceived need for the public goods or services that are to be provided. Again, this is the only means by which the activity can become legitimated. This requires coordinative action. Local citizens must be afforded an opportunity to provide input into the development of programs and activities that are being designed for their benefit.

In sum, mandating has serious implications upon the concept of federalism regardless of the definition that is used. The foremost causative factor is the massive federal assistance that has been made available to the local jurisdictions. This has served to induce local governments to become a partner in programs that are far beyond their levels of expertise and capabilities. The result is an overloaded system. This has necessitated some rather drastic changes in fiscal and regulatory policies. Governmental operations today operate on a system of intergovernmental transfers due to the exponential increase

in non-local revenues available at the local level. Significantly, the recipients of the public goods and services no longer look upon this as a satisfaction of their needs and demands; such services are now considered to be "entitlements" since they are funded from non-local resources. And the grants-in-aid are the devices that ensures that these entitlements are met.

In most instances, non-local revenues are intermeshed with own-source funds to the extent that the origin of the financing mechanism is indeterminant. It follows that under these conditions the program or activity being performed will adhere to policies and procedures specified by the ordinate level of government. The cost of not complying with these conditions-of-aid is prohibitive, both fiscally and politically. This raises serious questions as to efficiency, effectiveness, equity, and especially accountability. It is the substitution of prescription for negotiation.

Federalism might be dead. But its demise was not as a result of its deficiencies as much as it was by the lack of a clear definition of roles and responsibilities for the competing actors. Its replacement did not improve on the definitional problem. Intergovernmental relations rely upon an ever-changing process to establish effective relationships. As new conditions appear, new relationships are created. And these relationships are institutionalized through the process of mandating. As was stated earlier, federalism is what federalism does.

Argument: Some local governments have become dependent upon the ordinate levels of government, both fiscally and for policy, and are willing to sacrifice their priorities in order to retain non-local financing.

The main ingredient in this marble-caking of American federalism is the grant-in-aid. It is this device, with its inherent conditions-of-aid, that has been so effectively utilized by the political system to impose ordinate level goals and objectives on the local service delivery system. This massive infusion of non-local revenues has resulted in an overloaded system, accountable to no one. Consequently, many jurisdictions are in the process of administering ordinate level programs and activities that are based solely on the availability of these resources, not upon the expressed needs and demands of the local population. Simply stated, these units of local government do not exercise a role in the determination of public goods and services for local populations where the funding for these programs and activities is non-local. That crucial element of operational capability has been usurped by the political system; they have relinquished their decision-making role in favor of the dollar expedient.

The missing element within the current arrangement of role assignment is coordination. Coordination requires that each and every participant in the program be afforded an opportunity to provide input into the policymaking process. Only through this means can the participant bargain on behalf of its constituencies. And of utmost importance is the fact that this input must be provided by local elected officials. It is this element that is accountable to the electorate. It is argued that the current system of intergovernmental relations does not afford adequate opportunity for coordinative action and that failure to do so causes a loss of integrity for the intergovernmental system. However, it must be pointed out that coordination for its

own sake is futile. Coordination is a form of bargaining; it must therefore provide benefits for specific people. There is an inalienable right of the people to have a say in the design of programs that are for their benefit if these programs are to be legitimate. Without legitimacy there is no way of determining if a need or demand has been satisfied.

Argument: Mandating distorts the traditional concept for meeting the needs and demands of the local population.

There is a certain incongruence to mandating. First, there is the mandating agency that distrusts the capacity of the local government; this is demonstrated by placing conditions-of-aid on grants that are to accomplish a given program or activity. Second, there is the grant-in-aid which acknowledges the superior ability of the local government to minister to the needs of its residents. If the local government is thus qualified is it not likewise qualified to determine these needs? Wright and White (1984) argue that point in the affirmative. And Lovell (1980) found that local governments "have the capacity to develop and tailor specific programs to meet the needs of the community where there is sufficient flexibility in the sources of money to make such tailoring possible" (p. 280). Lovell also points out that national intentions are likely to be enhanced when the form of the grant facilitates ingenuity. Given the necessary flexibility required the local government will use innovative mechanisms that fit the local conditions.

Donald Kettl (1981) addresses this problem in a very illustrative manner. Given the problems associated with multiple assistance programs, the city of Richmond, Virginia, was confronted with a lack of expertise to administer the effort. If the city opted to run all of the programs,

this expertise would have to be recruited. More importantly, it would require the creation of a huge workforce, one which would have to be disposed of in some manner should the programs be reduced or eliminated. A second choice, and the one which the city chose, was to contract out the services to non-city organizations. This arrangement lifted these non-city organizations into a new status, one which Kettl refers to as the fourth face of federalism.

While contracting out is an innovative method for providing public goods and services, it is not a panacea. Kettl (1981) describes the result as a "bureaucratization of the federal aid function...with the city of Richmond acting as the administrative intermediary between the federal government with its money, goals, and requirements, and the non-city agencies, with their own disparate agendas" (p. 298). But what of roles and responsibilities under this arrangement? The city controlled its service providers through contract. The services being provided were specified by the ordinate level of government. Where in this entangled arrangement did the local population exercise its right to bargain? That role is vacant. And where is the accountability? It follows that there is no legitimate accountability since the role of the locally elected officials is to administer a contract.

CHAPTER VIII FINDINGS AND CONCLUSIONS

Findings

Introduction

The research and evaluation of the normative literature pertaining to the mandate issue has indicated several areas that are amenable to empirical research. The magnitude of a search that would address all of these areas is such that the task could be accomplished only through the application of vast resources. In addition, there is a valid argument against the undertaking of such a task; the data might be outdated by the time that the undertaking was accomplished. The basis for this argument lies in the everchanging nature of intergovernmental relations. It therefore seems appropriate to address key segments of the issue as contrasted to the universal approach. Thus the diminution of the issue to its impact upon the operational capability of local government.

Operational capability, or capacity, is defined as those functions of a local government which are established by sanctioned authority to provide public goods and services in accordance with the expressed needs and demands of the local population, both individually and collectively. This notion is operationalized through inherent functions

of local government. First, local governments must possess and be free to exercise a policymaking function. This is fundamental to the role of determination of needs and demands and the policy dictated by these requirements. Second, local governments must be able to develop processes and procedures deemed appropriate to the implementation process. Third, there must be an organizational structure suited to the efficient and effective delivery of the public goods and services envisioned by the policymaking process. Implied within this notion is the availability of adequate resources to facilitate provision of the public goods and services by the local delivery system. Given these capacities the local government, as the recognized provider of public goods and services, should, and can, satisfy the needs and demands of the community.

But this is a conceptual arrangement. Intergovernmental relations are complex. They are conditioned by social and economic factors. The result is that some of these traditional notions of service delivery have been altered so as to accommodate ordinate level goals and objectives designed to ameliorate the discontent brought about by these social and economic conditions. The role of mandating as a technique or method for effecting these changes has been substantiated in the preceding chapters. This chapter addresses the impact of these changes upon the operational capability of local government.

Empirical Methodology

The methodology used for this study is contained in Appendix A. Findings discussed below are based on analysis of the information generated in accordance with the processes and procedures outlined therein.

Findings

The primary function of the questionnaire (see Appendix A) was to ascertain the attitude of key informants on several aspects of the mandate issue. Within this context a series of questions was used to determine respondents' attitude for the general area of mandating and for some of the component activites thereof. Table 8-1 portrays the findings of this set of concerns. All questions utilized for these data were scaled on a one-to-five basis with value of three being the midpoint or neutral zone. A number below this midpoint represented a favoring of the stated condition while a number above the midpoint indicated disfavor. The farther away from this midpoint the more severe the attitude. For example, a value of "5" indicates that the prevailing attitude is that the constraint is considered to be large or significant while a "4" is moderate or causes some impact.

A cursory look at Table 8-1 indicates the diverse nature of responses. The first question was designed to obtain an overall evaluation of the attitude of local government officials toward the mandate issue. The findings are conclusive; there is indeed a perceived notion that mandating causes an impact upon the operational capability of local government.

The data pertaining to Florida shows that 50 percent of the respondents consider mandating as creating a significant impact upon the operational capability of their respective jurisdictions. An additional 48 percent consider such actions as causing a moderate impact upon their capacity to provide public goods and services. This 98 percent negative attitude clearly validates the notion that

Table 8-1

Attitude Toward Mandates

Type of Mandate	Frequency Dispersion (in Percentages)						Significant								
	FL (1)	PA (2)	Com	FL	PA	Com									
Mandates in general	0	32	12	0	19	5	2	0	2	48	25	41	50	25	43
Revenue constraints	5	0	3	0	38	10	14	13	14	38	13	31	43	38	41
Revenue base	2	6	3	5	21	12	14	19	16	40	19	34	38	25	34
Revenue rate	2	6	3	25	25	24	14	6	12	38	31	36	21	25	22
Expenditure limit	0	13	3	24	19	22	21	13	19	43	38	41	12	19	14
Personnel constraints	5	6	5	14	44	22	5	6	5	43	19	38	34	25	33

(1) n = 44 for Florida (FL)

(2) n = 16 for Pennsylvania (PA)

n = 60 for combined (Com)

the mandate issue is indeed a matter of concern at the local level of government for these officials.

The set of data pertaining to Pennsylvania is intriguing. There is an almost equal division of attitudes demonstrated. The explanation of this variance among the expressed attitudes might be explained by the size of the sample. However, there is a possibility that there are underlying causes for the variance since one of the counties operates under the home rule concept. This question requires further empirical study.

There is a vast difference between the set of data pertaining to Florida and that for Pennsylvania. Two possible explanations are offered: (1) the presence of a constitutional amendment against mandating without reimbursement where there is a loss of specified revenues; and (2) environmental considerations. Each of these factors are discussed in subsequent portions of these findings. This does not obviate the need for further empirical research into the import of these two factors upon the mandate issue.

There were five questions pertaining to specific forms of constraints. These data clearly illustrate the diverse attitudes that persist among the respondents. First, revenue constraints, as a group, were found to approximate that of mandates in general as to their negative values. Again, there is a large separation between attitudes expressed by respondents from Florida and those from Pennsylvania. However, there is a strong shift from the beneficial category evidenced in the Pennsylvania data. But there is one very significant finding in these data; revenue constraints as a group are considered to create a greater problem than does either of the

component forms of revenue constraints. This is true for both sets of data, Florida and Pennsylvania. This clearly illustrates the cumulative effect of imposing more than one form of constraint.

The final attitudinal question pertained to the perceived impact of mandating upon the personnel function. Here the data adheres to the trends found for the other forms of constraint in that there are extreme variances between the two sets of data. The impact of mandating upon the component elements of the personnel function are to be discussed in a subsequent section. Suffice it to say at this point that the findings support the general finding that mandating causes a moderate to significant problem for local governments of Florida while being favored by officials of Pennsylvania.

In sum, to this point, it was found that officials of local governments in Florida and Pennsylvania perceive mandating as causing a negative impact upon the operational capability of their jurisdictions. The indicated extent of this impact fluctuates rather widely according to the area of interest. The overall attitude is best expressed as: (1) mandating creates significant impacts upon operational capabilities for local governments within Florida; and (2) only moderate impact upon Pennsylvania jurisdictions. Revenue constraints as a group are more significant than either of the component forms of revenue constraint. Personnel constraint data follows the trend for revenue constraints within Florida but are slightly favored by officials of local governments in Pennsylvania.

One key measurement of the effect that mandating has upon the operational capability of local government is the extent of displacement that occurs. In one respect, displacement has a direct relationship to the degradation of the policymaking role at the local level since that role has been usurped by the mandating agency. Such displacement can result in a reduction of planned services or the deferralment of a project pending availability of resources. Both of these aspects of displacement were investigated.

Respondents were asked to indicate if mandating had caused a reduction in planned services for their jurisdiction. A total of 33 respondents from Florida answered in the affirmative. However, there were only five affirmative answers contained in the Pennsylvania set of data. This is a significant difference in the incidence rate. It says that a mandate will cause a reduction in planned services in Florida approximately 77 percent of the times that a mandate is imposed. This is contrasted to an incidence rate of only 31 percent for a mandate imposed in Pennsylvania. There must be some logical reason for such a wide variation in incidence.

Respondents were asked to indicate the area or areas within which these reductions in planned services were affected. Table 8-2 portrays that set of data and there are indeed some rather significant findings indicated. First, and perhaps most significant, is the graphic depiction of the disparity between instances of displacement for the two geographical areas. Granted, the Florida sample population is larger. But consider the following:

	FL	PA	Ratio
Number of questionnaires mailed	89	26	3.4 to 1
Number of returns	43	16	2.7 to 1
Number of displacements reported	194	25	7.8 to 1
If the sample size is equated, then the following applies:			
Number of displacements reported	194	85	2.3 to 1
If the number of returns is equated, then the following applies:			
Number of displacements reported	194	68	2.8 to 1

It is therefore concluded that the likelihood that a mandate will cause a displacement to occur in Florida is at least twice the likelihood that such an instance will occur in Pennsylvania.

The second significant finding concerns the high concentration of displacement in three areas. It was found that 54 percent of the displacement occurred in the area of Public Works; 27 percent in the Capital Improvement Program area; and an additional 9 percent in the Recreational Activities area. Together, these areas account for some 90 percent of the displacement. The common characteristic of these three areas is that they are part of the infrastructure for the jurisdiction. It is therefore concluded that local governments are utilizing available revenues to finance basic services and are constrained as to revenue authority to finance infrastructure projects.

The severity of impact created and the inability of local governments to lower the incidence rate for these heavily impacted areas is of equal concern. For example, the Public Works area includes streets, road, drainage, sewers, maintenance, etc. In 1979, some 50 percent

Table 8-2

Displacement: Reduced Services in Principal Areas Impacted

Year	Frequency Dispersion					Capital Improvement					
	Public Works					Level of Significance					
	None	Small	Unknown	Moderate	Large	None	Small	Unknown	Moderate	Large	
1979	FL(1)	-	-	-	13	9	-	-	-	3	7
	PA(2)	-	-	1	4	-	-	-	-	-	-
1980	FL	-	-	1	13	9	-	-	-	3	7
	PA	-	-	1	4	-	-	-	-	-	-
1981	FL	-	-	1	9	11	-	-	-	3	10
	PA	-	-	-	4	-	-	-	-	-	-
1982	FL	-	-	1	9	11	-	-	-	3	9
	PA	-	-	-	5	-	-	-	-	-	-
1983	FL	-	-	2	8	10	-	-	-	4	9
	PA	-	-	-	-	-	-	-	-	-	-

(1) n = 44 for Florida

(2) n = 16 for Pennsylvania

of the respondents from Florida indicated that mandating had caused a displacement in planned services as pertains to the Public Works area. The percentage for Pennsylvania is only slightly less. The severity of these displacements is indicated by the fact that nine of the actions are considered as creating a significant impact upon the operational capability of the jurisdiction. Yet neither the severity nor the quantity of incidents changed significantly during the 1979-1983 time period. The data for the Capital Improvement Program area are equally damaging. This supports the conclusion that local governments are constrained in their revenue authority and are therefore unable to accomplish many of the programs and activities which are deemed necessary and appropriate by these local officials.

A second aspect of the displacement problem pertains to deferred projects as contrasted to reduction in planned services. The questionnaire called for responses to three questions that addressed this problem. First, respondents were asked to identify areas within which deferred projects occurred, by year, from 1979 through 1983. Second, the respondents were asked to indicate the year that the deferred project was subsequently funded, or if it remained unfunded. Third, the source of revenue that was used to fund the previously deferred project was to be indicated. This set of questions was designed to portray: (1) the areas of impact; (2) any trend toward their alleviation; and, (3) the source of revenue that caused the alleviation. Responses to the first part of this set of questions is portrayed at Table 8-3. The responses to the second and third parts are included in discussion form due to the complexity of the data.

Table 8-3
Displacement: Deferred Projects

Service Area	Number of Projects by Year				
	1979	1980	1981	1982	1983
Administration	-	-	-	3	-
Florida	-	-	-	3	-
Pennsylvania	-	-	-	-	-
Public Safety	5	4	4	2	3
Florida	4	3	2	1	2
Pennsylvania	1	1	2	1	1
Public Works	15	14	18	23	22
Florida	11	10	16	20	17
Pennsylvania	4	4	2	3	5
Social Services	-	7	-	1	1
Florida	-	7	-	1	1
Pennsylvania	-	-	-	-	-
Recreation	2	2	5	5	4
Florida	2	2	5	5	4
Pennsylvania	-	-	-	-	-
Capital Improvement	20	14	15	8	12
Florida	20	14	14	8	12
Pennsylvania	-	-	1	1	-
Totals	42	41	42	42	40

In 1979 there were 42 reported deferred projects. Significantly, the majority of these deferred projects are in the same areas within which planned services were reduced. Only partial alleviation of the problem occurred. One project from the Public Safety area was funded from other local revenues in 1983 and the balance remained unfunded. The Public Works area fared somewhat better with six projects being funded in 1983 and two projects in 1984 from the other local revenue source. The balance of seven projects remained unfunded. Deferred recreational projects were partially funded from other local revenues in 1984. The only significant alleviation of the deferred project list occurred in the Capital Improvement Program area. Nine of these 20 projects were partially funded through special tax funds; six were partially funded through other local revenues; and five were partially funded through a combination of special taxes and other local revenues.

The list of deferred projects for 1980 is very similar to that of the preceding year in that it contains 41 deferred projects. However, the Capital Improvement Program area shows a reduction of six. This is offset by an increase of seven in the Social Services area which remained unfunded at the end of the year. All Public Safety projects were partially funded through other local revenues as was seven of the Public Works area projects and the two Recreational Activities projects. Half of the Capital Improvement Program projects were partially funded from special taxes and half remained unfunded.

In 1981 the number of deferred projects remained constant as did most of the trends for service areas. The one significant difference is in the Public Works area where three of the 18 projects were partially funded by other local revenues and 15 remained unfunded.

In 1982 there was a significant change in the Capital Improvement Program area but a corresponding deterioration in the Public Works area. In the former there were only two projects that were not partially funded while the latter contained 18 unfunded. The prevalent source of funding in the years in which the projects were accomplished--in this case it was 1983 and 1984--was the special tax revenue.

Finally, the 1983 data indicates that the number of deferred projects remained constant but there was significant reduction in the projects that remained unfunded. Of the 22 projects in the Public Works area only seven remained unfunded although the others were only partially funded. In the Capital Improvement Program area only five remained unfunded. In both of these areas the source of revenue was the special tax.

There is little difference between the set of data for Florida and the set of data for Pennsylvania as pertains to the funding of projects that had been deferred. In general, the findings for the combined group are applicable to the separate sets of data.

There is a problem with trying to generalize these data. First, it can be stated categorically that mandating caused significant numbers of projects to be deferred. Second, the brunt of this deferral action was within those areas normally associated with the

infrastructure of the jurisdiction. Third, there was an increase in the revenue authority available to the local jurisdiction which allowed these units of local government to alleviate some of the problems associated with displacement. This revenue authority was in the form of a special tax on fuels and the usage of these revenues was constrained to improvement in the infrastructure of the jurisdiction. Finally, the data clearly demonstrates that given these revenues the local governments can, and do, devise innovative and effective programs for reducing the significance of deferred projects. Significantly, all components of operational capability were present and exercised at the local government level.

In sum, it was found that there is extensive displacement at the local level of government that is caused by mandating. The rate of incidence for Florida is more than twice that of Pennsylvania. Most displacement occurs in those areas that are associated with the infrastructure of the jurisdiction. It was found that local governments are constrained in such a manner that required revenue authority is not readily available. Within the context provided, this creates a negative impact upon the operational capability of the local government. However, when revenue authority is provided--as was the case with the special tax on fuel--these same local governments are capable of developing the necessary policies and implementation procedures needed to provide goods and services in accordance with the expectations of the community.

Respondents were asked to provide a scaled estimate of the percentage of revenues, by source, that was being used by their jurisdiction

to fund mandated programs and activities. That set of data is presented at Table 8-4. The data is very interesting.

There is an apparently significant difference between the data for Florida and that pertaining to Pennsylvania. Florida respondents, in general, report greater usage of certain sources of revenues to finance mandated actions than do the respondents from Pennsylvania. The percentage of each source that is used to fund mandated actions is consistently higher for the Florida jurisdictions as contrasted to that of the corresponding Pennsylvania source. It must be remembered, however, that the incidence rate for Florida was twice that of Pennsylvania and that the general attitude toward mandating is markedly higher for Florida.

One measure of the adequacy of revenue authority is the extent to which discretionary funds are available. Such a question was asked and the response data is portrayed at Table 8-5. There are two significant findings here: (1) there is little difference in the availability of discretionary funds according to the geographic location; and (2) there has been a significant decline in discretionary funds available during the 1980-83 time period. It is therefore concluded that mandates serve to constrain discretionary funding on a universal basis and that these constraints are becoming more prevalent, and more severe, with the passage of time.

There were eleven questions pertaining to the impact of mandated actions on the personnel function. That set of data is contained in Table 8-6. The findings exhibited by this set of concerns are significantly different from that of other mandates. First, in the Florida set of data, there is clear evidence that mandating causes significant

Table 8-4
Source of Funding for Mandated Actions

Source	Frequency Dispersion						Combined
	Florida (1)			Pennsylvania (2)			
	Percentage of source used						
	0-25	25-50	51-75	76-100	0-25	25-50	51-75
Federal	8	6	7	15	3	1	1
State	8	18	3	7	3	2	-
Local	17	15	-	4	3	1	-
User fees	28	4	-	4	5	-	1
Local option	2	10	12	12	-	5	-

(1) n = 36

(2) n = 5

Table 8-5
Discretionary Funds

Year	Florida (1)				Pennsylvania (2)				Combined					
	Range (in percentages)	0-25	25-50	51-75	76-100	Range (in percentages)	0-25	25-50	51-75	76-100	Range (in percentages)	0-25	25-50	51-75
1979	7	16	10	2		4	5	2	-		11	21	12	2
1980	7	20	6	2		4	5	2	-		11	25	8	2
1981	11	17	5	2		4	5	2	-		15	22	7	2
1982	19	11	5	2		4	7	-	-		21	18	5	2
1983	20	8	5	2		4	7	-	-		24	15	5	2

(1) n = 44

(2) n = 16

Table 8-6
Impact of Mandating on Personnel Functions

	Frequency Dispersion					
	Florida (1)		Pennsylvania(2)		Combined	
	Agree	Disagree	Agree	Disagree	Agree	Disagree
Subject area						
Limit personnel operations	34	9	8	8	42	17
Limit ability to "hire and fire"	31	12	8	8	39	20
Limit ability to negotiate	27	16	11	5	38	21
Prescribe excessive benefits	26	19	7	9	33	26
Are appropriate for training (fire & police)	21	22	13	3	34	25
Are appropriate for uniformity of policy	11	32	11	5	22	37
Are appropriate for uniformity of procedures	12	31	9	7	21	38
Are appropriate to insure comparability of pay	9	34	7	9	16	43
Require excessive reporting	37	6	11	5	48	11
Cause displacement of other services	29	14	9	7	38	21

(1) n = 44

(2) n = 16

impact in ten of the eleven areas tested. This is contrasted to the Pennsylvania set of data which indicates that mandating is disfavored in only four areas.

This would indicate that many of the mandates pertaining to personnel operations have become internalized in Pennsylvania while remaining a problem in Florida. This internalization is probably traceable to a general attitude toward unionization that is prevailing in Pennsylvania and is absent in the Florida environment. For example, the only area within the Pennsylvania set of data that is considered to be of significant impact is that pertaining to negotiation rights. By contrast, the Florida set of data contains seven areas that are considered significant as is the overall average. Clearly, personnel mandates as applied in Florida are of greater concern than they are in Pennsylvania. And the degree of severity validates the conclusion that mandates create a significant impact upon the operational capability of local governments.

There were seven questions designed to ascertain the impact of mandating upon democratic control at the local government level. That set of data is presented at Table 8-7. It was found that:

- a. Mandates have a significant effect upon the capacity of local governments to determine and satisfy local needs and demands;
- b. Local officials should be held fiscally accountable for all revenues collected and expended by the local government.
- c. Local officials should be held politically accountable for all activities conducted by their jurisdiction;

- d. Criticism of an official for actions which were mandated are considered to be inappropriate;
- e. The election process is an extremely poor means for disseminating information pertaining to intergovernmental relations;
- f. Voters give very little consideration to the intricacies of intergovernmental relations when assessing the performance of an incumbent official; and,
- g. Mandated actions have a moderate-to-significant impact upon the outcome of local elections.

Surprisingly, this set of data is the most consistent of any as pertains to geographical differences. Although Pennsylvania values are lower than those for Florida, the relationships are fairly consistent throughout. It is therefore concluded that mandating does indeed have an impact upon democratic control at the local government level. There is also a strong indication that there is a lack of understanding of the concept of intergovernmental relations as applied to local governments. This lack of understanding is manifested through the election process and causes a moderate-to-serious impact upon the outcome of local elections.

But the most significant data resulting from this set of concerns pertains to the effect that mandating has upon the ability of local governments to determine the needs and demands of its constituents and to satisfy these requirements. The values indicated for this subject area indicates a strong effect upon that aspect of operational capability. There can be no doubt as to whether there is a cause and effect relationship between mandating

Table 8-7

The Effect of Mandating on Democratic Control

Subject area	Frequency Distribution						Combined	
	Florida (1)		Pennsylvania (2)		Agree	Disagree		
	Agree	Disagree	Agree	Disagree				
1	2	3	4	5	6	7	1 2 3 4 5 6 7	
Little or no effect on local needs and demands	-	1	1	3	-	4	14	1 1 2 - 5 1 6
Hold officials accountable for all revenues	17	3	1	-	-	2	11	1 1 3 - - -
Hold officials accountable politically	15	5	1	1	-	1	11	1 1 3 - - -
Criticism appropriate regardless of mandates	3	-	2	2	-	15	3	- - - 5 1 7
Election process affords adequate forum for IGR(3)	8	-	6	-	-	9	2	5 - 4 - 2 3
IGR and mandating are considered by voters	-	-	7	1	3	12	-	- - 5 1 2 8
Little or no effect on outcome of elections	5	-	1	6	1	9	3	- 1 5 4 - 3

202

(1) n = 44

(2) n = 16

and the ability to determine needs and to subsequently satisfy those needs. Earlier parts of this statistical analysis concluded that mandating in Florida is more likely to cause a displacement of a public good or service than it would in Pennsylvania. It was also found that the perceived impact of mandating was higher in Florida. Both of these findings are supported by the finding that mandating in Florida causes a much more severe impact upon the ability to determine needs and to satisfy these needs than is evident from the Pennsylvania set of data. The sets of data are mutually supportive of the overall attitude that was demonstrated.

In sum, it was found that there is a perceived notion among local government officials that mandating causes a negative impact upon the operational capability of their jurisdiction. This notion was validated in the following ways:

1. There is a high incidence of displacement. This displacement was found to be manifested in a reduction of planned levels of goods and services as well as evidence of deferred projects. The displacement was concentrated in the areas normally associated with the infrastructure of a jurisdiction which indicates that available funds are being utilized to fund day-to-day services, and that there is a shortage of funds or revenue authority to accommodate the displaced projects or services. However, when additional revenue authority is available these local governments can, and do, devise innovative ways to reduce the severity and magnitude of the unmet needs of the community.

2. There ia a paucity of discretionary funding available to local governments. More than half of the federal, state tax, and local option revenues are used to fund mandated programs and activities. The current trend of discretionary funding is downward.

These findings clearly validate the attitudinal finding that mandating causes a negative impact upon the operational capability of local governments.

It was found that personnel mandates are significant in four of eleven areas tested. However, there is a significant difference between the impact of personnel mandates in Pennsylvania and these same mandates in Florida. Only one area was considered by the Pennsylvania respondents to be significant while seven of the eleven areas were considered to be significant by the Florida respondents.

The data indicates that mandating causes a significant impact upon the processes of democratic control at the local level of government. First, as mentioned above, mandating constrains the ability of local governments to determine and satisfy the needs and demands of the community. Second, local officials feel that they should be held accountable, both fiscally and politically, for their actions. Third, there is a general lack of understanding of the intricacies of intergovernmental relations. Finally, mandating has a significant effect upon the outcome of local elections.

Cumulatively, these data demonstrate the magnitude and severity of the effect that mandating has upon the operational

capability of local governments. The dominant aspect of this effect is manifested through encroachment upon the policymaking role of the local government. It is this role that is considered by the respondents to be distorted to a greater extent than any other. It follows that the other aspects of operational capability will be altered so as to attain a degree of consonance in the program or activity. The result is a compounding effect, not just a process of adding an additional mandate. This compounding effect was found in the area of revenue constraints as well as in the personnel area. These constraints result in displacement of locally determined requirements for public goods and services. And the political system is unable to rectify any inequities due to a general lack of understanding of the intricate system of inter-governmental relationships that exist. This confusion and inability to take positive action accounts for much of the finding that mandating has a significant impact upon the outcome of local elections. It remains to be seen whether these findings can be substantiated by in-depth analysis of the mandate issue.

Case Study

One alternate means of evaluating the impact of mandating upon the operational capability of local government is to do an in-depth analysis of the jurisdiction's operations. Such an effort was conducted with one county from Florida and one county from Pennsylvania being selected for survey and evaluation. The findings are based on interviews with key operating personnel and published documents such as budgets. The findings pertaining to this phase of the study are summarized below.

Florida

Mandates are a significant deterrent to the efficient, effective exercise of operational capability within this county. This is a "full service" county in that it provides virtually all types of public goods and services. The county operates with an appointed County Administrator and an elected Board of County Commissioners.

There are several areas where mandates create significant impacts. Perhaps the most bothersome is a constitutional mandate pertaining to key functional areas of county operation. The Florida constitution prescribes duties, responsibilities, salaries, and various operational facets for the:

1. Sheriff
2. Property Appraiser
3. Tax Collector
4. Supervisor of Elections
5. Clerk of Court

These officials are traditionally referred to as the "constitutional officers" of the county. Yet the constitution prescribes the Board of County Commissioners as the legislative element of county government.

Traditionally, most of the guidance as to the level of operation for these offices emanates from the state. Each of these "constitutional officers" is authorized to develop a separate budget for the operation of their office which is based, in part, upon this guidance. Subsequently, each of the budgets are submitted to the Board of County Commissioners for funding. Should the Board of County Commissioners disagree with the proposed budget there is a good possibility of "pressure" being applied from the state level to have the disapproval

reversed. In the case of the Sheriff, there is a statutorial provision for the Sheriff to appeal any adverse decision to a state agency. This state agency has the authority to direct the Board of County Commissioners to fund the proposed budget.

This is a particularly bothersome procedure for the county. Not that there is animosity between the various elements of government; it simply defies all logical means for effecting control over the operations of the county. First, it severely distorts the policymaking process. Policy that should be developed by the legislative element of county government is being formulated at the state level and at six different elements within the county. Second, since there are at least six budgeting processes there are probably that many different organizational structures involved with the determination of workloads and priorities. This is hardly an efficient or effective system. Third, the "threat" of having a state agency in the overseer role causes the local government to approve the budget requests rather than take the risk. This has undoubtedly caused the millage rate to be higher than it would have been if these agencies had had to compete for their fair share of those funds that were to be made available by the Board of County Commissioners.

A second area of policy change pertains to the effect that mandating has had on the entire revenue arena. First, given that mandates by definition cause a cost to be incurred there are a number of strategies that can be adopted. The local government can simply ignore the mandate, the penalty for which is social. The jurisdiction can "follow to the letter but not the intent," in which case only minimal costs will occur. And one last strategy is to do that which is needed, regardless of the costs involved, so long as the citizens approve and it can be financed.

This latter method might be equated to a "progressive" attitude. It is the attitude that this county has generally adopted. For example, the county was mandated to participate in the Mental Health program at a cost of approximately \$250,000. The county assessed its needs at far in excess of this amount and is currently funding the program at a cost of some \$920,000 to the county.

The impact of such a strategy is that it causes an increase in property taxes. This county currently has a millage rate very near the maximum allowable under state law. Ad valorem taxes account for 53 percent of all revenues within the county. Significantly, this policy was instituted at a time when the Homestead Exemption was on a graduated basis, and counties were being reimbursed for the loss of revenue associated with a Seniors Homestead Exemption. However, the state stopped this reimbursement in 1981 and the Homestead Exemption Act, as written, was declared unconstitutional by the courts in 1982. Consequently, all homeowners now receive an exemption of \$25,000 on their property and seniors receive an additional \$5,000. The net result is that about 40 percent of the homeowners in this county do not pay property taxes.

The role of intergovernmental transfers is indicative of the changes that have occurred. In 1978 this source of revenue accounted for 37 percent of the revenues for the county. That percentage declined to a rate of 23 percent in 1982 and has remained at about that level. During this period the county's requirements for revenues increased immensely but the amount of intergovernmental transfers remained at about the same level or slightly lower. This increase in requirements was met through an increase in revenues from the property tax source.

But even increasing the revenues by the maximum amount allowed by Project TRIM was not enough to meet the needs of the county.

The amount of discretionary funding that is available to a jurisdiction is normally indicative of the adequacy of revenue authority. In response to a question on the impact that a 20 percent reduction would have upon the operational capability of the county, the reply was given that such action could be taken only under catastrophic conditions and would have to be implemented due to some outside force such as that contemplated by Proposition 1, or Proposition 13 which was passed in California. It was estimated that the present revenue authority allows no more than 10 percent for enhancement of existing programs or the institution of new ones.

The best example of the constraints that exist within the county is that of the Road Improvement Program. In 1983 the state legislature granted counties the option to tax motor fuels up to a maximum of four cents per gallon. The county, being politically constrained, opted for three cents per gallon. The revenues generated from this source are to be used, in general, for road improvements. Revenues were received and used in FY84 for the intended purposes, and are budgeted in the FY85 budget. Yet it is estimated that \$35 million of additional revenues will be needed in the next decade just to bring the major arterial roads up to standard. This condition is prevalent in most, if not all, infrastructure funding areas.

In sum, mandating within this county has had serious consequences for its operational capability. The constitutionally mandated organizational structure and methods of operation for the five constitutional officers creates problems relating to policymaking, funding,

coordination, and operational control. Given a fixed or constrained revenue authority, the impact of these non-controllable elements of county government upon the remaining county functions is significant. Should the budgets of these five elements exceed that which was anticipated by the Board of County Commissioners there is a good possibility that the requests will be funded and some other priority activity will be displaced to compensate for the requested increase. The tax millage rate is higher than it should be due to these and other mandated actions. Intergovernmental transfers has declined to a level of 23 percent of total revenues. Federal revenue sharing is an insignificant 2.6 percent and other federal grants account for less than one percent of the budget.

Pennsylvania

There are two essential factors that influence the impact of mandating in the commonwealth of Pennsylvania. First, the commonwealth has a constitutional amendment (although limited in applicability) against mandating without reimbursement to local governments for the costs incurred as a result of the mandate. Undoubtedly this creates an awareness of the potential impact that the imposition of a constraining action will cause at the local level. Second, all of the land area within the commonwealth is incorporated; the county has no land area of its own other than that which it obtains for public uses. These two factors serve to limit the scope and range of mandates that are applicable to counties within Pennsylvania. For example, the county has no responsibility for Police Protection since all of the land area is within cities, townships, or boroughs.

The county selected for survey and analysis operates under the Home Rule concept with an elected County Executive and the traditional Board of County Commissioners. Significant within this structure of local government is the responsibility of the County Executive to prepare and submit to the Board of County Commissioners a budget for all county functions. Should the Board of County Commissioners disagree with the proposed budget it is "marked up" and returned to the County Executive. At this point the County Executive has veto power against the changes made by the board but such changes may be sustained by a vote of a majority of the board plus one.

There are six authorities operating within the County as corporate bodies organized according to the Pennsylvania Municipalities Act. Each is governed by a board appointed by the County Executive and approved by the Board of County Commissioners. These authorities either own and operate or simply operate facilities on behalf of the County. However, since these are corporate bodies they operate in a quasi-independent manner.

The most striking characteristic of this county's operations is its high concentration of resources to satisfy health and social service needs and demands. This is clearly demonstrated by Table 8-8. There are two categories of expenditures related to these services: Human Services; and County Homes. If the two categories of expenditures are combined and the result compared to the total revenues available it is seen that more than 50 percent of available revenues are used for these purposes. Even when the receipts from County Home residents are extracted from both totals in order to achieve a net figure the

result shows that the ratio has increased from 44.2 percent in 1980 to 51.1 percent in 1983. Clearly, the county is in the business of providing health and social care to its citizens.

But a second feature demonstrated by Table 8-8 is even more revealing. And that is the source of revenue for funding the health and social programs and activities. That source is clearly grant income. The ratio of grant income to total county General Fund revenues has been near 48 percent for each of the years that data is presented. These grant revenues were provided as a means of financing mandated programs and activities in the cited areas.

A third feature pertains to the revenues that are generated through the property tax device. The millage rate for this county has remained constant at 11.5 since 1976. And contrary to the procedure used in many other jurisdictions, the assessed value for property has been fixed at a standard evaluation level which was established in 1974. All new construction is down-valued to the corresponding 1974 value. Thus one side of the property tax revenue source is frozen and the other side has been stabilized by political choice. The result is that any increase in property tax revenue is based on growth, not from a raise in millage rate or the assessed value. Although there has been significant growth in the county, the tax revenue has increased only slightly--from \$15,168,000 in 1980 to \$16,192,000 in 1983--due to these constraints. This is equivalent to an annual increase of about 2 percent. Significantly, the ratio of property tax revenues to total revenues has declined from 33.4 percent in 1980 to 28.1 percent in 1983.

There are some clear and evident implications of mandated actions upon the operational capability of this county. First, and foremost,

Table 8-8

Comparative Funding Data: Pennsylvania County

Year Ending December 31	1980	1981	1982	1983
Revenues (millions)				
Property Taxes	\$15.2	\$15.5	\$15.9	\$16.2
Grant Income	21.3	24.2	25.2	27.8
County Homes Receipts	4.1	4.7	5.0	6.0
****	**	**	**	**
TOTAL REVENUES	\$45.3	\$50.8	\$53.5	\$57.6
 Expenditures (millions)				
Human Services	\$9.8	\$10.8	\$11.6	\$12.3
County Homes	12.5	16.7	17.7	20.2
Sub Total	\$22.3	\$27.5	\$29.3	\$32.5
****	**	**	**	**
TOTAL EXPENDITURES	\$39.6	\$44.6	\$49.1	\$54.4

is the issue of fiscal dependency. With 48 percent of the revenue originating as a grant there can be no doubt as to the dependency of the county upon this source of revenue. The value of the service being provided is not in question; its viability is suspect. Furthermore, should there be a reduction in the grant income it is doubtful if an additional source of revenue of the magnitude required would be readily available. Given that the current level of grant income is 171 percent of the property tax revenue it is not feasible to assume that revenues of the magnitude required can be generated from that source. The state and municipalities presently employ numerous other forms of taxation such as sales, income, occupation, per capita, etc. It is concluded that in this instance the massive infusion of grants has created a dependency of such an extent that there is no readily available source from which revenues could be generated to supplant the grant income should the need arise. The alternatives are to continue the level of services and their source of revenues, or reduce services to a level which is fundable. Given that the present level of services have been institutionalized to the extent that they are now considered to be entitlements as contrasted to needs and demands, and the political consequences of any reduction, the likely action is to retain the present level of services for the foreseeable future. But that does not negate the problem. Sooner or later it must be reckoned with.

From an operational capability point of view the lack of land area causes a problem for the county. Given that the responsibility for solid waste disposal is a county responsibility, the county is placed in a position of having to negotiate with some other jurisdiction for

a suitable landfill site. And given the significance of this problem today, its solution is of paramount importance. Yet other local governments do not want the facility located within their jurisdiction. This county is attempting to resolve the problem by creating a suitable landfill site. The township within which the site would be located is strenuously objecting to the intended use of the land. So strong is the objection that there is pending before the legislature a bill which would grant local communities the right to veto such usage. Such are the vagaries of intergovernmental relations. Again, it is the assignment of a role or responsibility without the proper coordinative action among those jurisdictions that are expected to implement the program.

The decline in the ratio of property tax revenues to total revenues further illustrates the dependency problem. Given that grants are conditioned as to their use, the degree of flexibility or discretion available to the county is influenced by the acceptance and use of these funds. Most grants require that local governments participate financially in the programs and activities that are funded by the grants. This results in an intermeshing of non-local and own-source revenues. In this county there is a severe problem approaching. On the one hand is a declining property tax ratio; on the other is an increase in the rate of expenditures for these health and social programs and activities. As these expenditures increase, there is an ever-increasing need for more own-source revenues. Thus the rate of dependency is at, or will soon reach, the point where the county will be solely in the business of providing those public goods and services which are funded by the grant device. The county then becomes an administrative arm of the ordinate level of government, carrying out those programs and activities deemed appropriate by that level of government.

Comparative Analysis

Each county has its good points and its negative values. But there is a common thread that runs through the matrix of both. That thread is that mandating does indeed create a negative impact upon the operational capability of local government. Although many, if not most, of these implications are universal there are a few that warrant specific discussion.

First, and most significant, is the dependency of the Pennsylvania county upon grant income as a source of revenue. The magnitude of these grants so dominates the budget that it raises serious questions as to the viability of the governmental structure. It is a foregone conclusion that should this source of revenue be curtailed to any significant degree the county would be left with a massive organizational problem, and the attendant personnel problem that accompanies such a reduction. And given the current thinking on the source of funding for many of the activities that are included in the health and social needs areas, there is indeed a need for concern.

Second, the constitutional mandate within the state of Florida which prescribes the roles and operations of the "constitutional officers" has the effect of placing the Board of County Commissioners in a virtually untenable position. This action forces a distortion of the policymaking process. Inasmuch as the Board of County Commissioners is both an administrative and a legislative body for the county, it is the prerogative of this body to develop policy for the county. In the case of the constitutional officer this prerogative has been usurped through the budget approval and appeal device. Policy must flow from that element of government which is designated as the legislative body.

There is a somewhat similar situation in the Pennsylvania county. Although the County Executive and the Board of County Commissioners exercise adequate control over the General Fund budget, there is room for concern as pertains to the operations of the quasi-independent authorities that provide public goods and services on behalf of the county. The question is: Where is the policy developed for these operations? There is a tendency for these quasi-governmental, quasi-private business, appointive structures to become involved in the policymaking function. And that is a role reserved for elected officials. The logic for these authorities to exercise this tendency lies in the fact that they are organized in accordance with a sanctioned authority for the purpose of "operating a business." Again, policymaking is not only a legitimate role for elected officials, it is the principal role. It is a responsibility that cannot be delegated.

A third area of concern that is evident from analysis of these two counties is that of revenue authority. The two counties are worlds apart when it come to dependence upon similar sources of revenues. For example, the Pennsylvania county relies upon grant income for 48 percent of its total budget. This is compared to only 3 percent for the Florida county. Ad valorem taxes account for 53 percent of the revenues in Florida while only 23 percent of the Pennsylvania county's revenues are from this source. Yet, in all candor, it must be stated that both counties are doing an exemplary job of meeting the needs and demands of their communities. But it is a constant process of shifting policies and procedures to accommodate given programs and activities. Constraints place an undue burden upon any local government that adopts a progressive attitude toward service delivery. They do not take into consideration

the attitudes and economic conditions of the community. Thus a local government that adopts a progressive attitude and has the ability to pay for services that are deemed appropriate should be allowed adequate revenue authority to facilitate these conditions. Such is not the case with either of these counties. Both are constrained, although in different manners. The measurement of this constraint is the amount of discretionary funding that is available; it is also the measure of adequacy of revenue authority. Neither county has adequate revenue authority as measured by the discretionary authority that is available.

In sum, there is clear evidence of dependency upon grant income as a source of revenue in the Pennsylvania county. There is a strong possibility that this dependency has resulted in a major portion of the government of this county existing simply because these revenues are available.

Policymaking as pertains to these revenues is non-existent; it cannot be present due to the conditional use of the revenues. By contrast, the Florida county is impacted very little by the receipt of grant income. But the Florida county is constrained in a significant manner by a state constitution which distorts the normal policymaking process through the concept of constitutional officers. This and other mandates has caused the county to be heavily reliant upon ad valorem taxes as a primary source of revenue--53 percent of the current budget.

Conclusions

The study evaluated the impact of mandated actions on the operational capabilities of local governments. The empirical research found that significant impact occurs across a broad range of operational concerns. These findings include:

1. There is a perceived notion among the officials of local governments that mandates cause significant impacts upon the operational capability of local governments.
2. Mandating causes displacement of public goods and services at the local level of government. This displacement manifests itself through reduction of planned services and deferred projects. Any measurement of this displacement reflects the impact of mandating upon the service delivery system.
3. There is little likelihood that any service that is reduced, or any project that is deferred, will subsequently be funded unless the local government is allowed a new source of revenue authority. In this respect there is a loss of operational capability that is created by the revenue constraint which foreclosed the revenue authority sources.
4. There is a scarcity of discretionary funding available to local governments. Given that a majority of the funding that is available to local governments is used to fund mandated programs and activities, and that there are other fixed costs for the jurisdiction, it was found that only 29 percent of the revenues that are made available to these local governments can be considered as discretionary.

5. Mandating within the area of personnel operations causes significant loss of operational capability.
6. Mandating creates significant negative impacts upon the processes of democratic control. First, it distorts the election process by encouraging a system of intergovernmental relations that is not understood, nor is it conducive to participation by the average citizen. Second, it disrupts the policymaking process by usurping that role from the local government and giving it to a technocratic agency at the ordinate level of government.

In sum, the statistical data is conclusive. There is an impact upon the operational capability of the local government when the will of an ordinate level of government is imposed upon lower level of government. The degree of severity of that impact is less precise. But when measured in terms of displacement and discretionary funding, the ramifications become evident.

The case study was used to provide an in-depth analysis of the impact that mandating has upon the operational capability of local governments. While the statistical data shows that a change in policy, for example, has occurred, the case study allows the researcher to ascertain the implications of the change. The findings of this phase of the empirical research was enlightening and illustrative of the pervasiveness of the mandate issue.

The case study clearly demonstrates, beyond a reasonable doubt, that fiscal dependency can, and does, exist. When a local government must rely upon grant income for 48 percent of its total revenues on a consistent basis, then that local government is dependent upon the

grant income as a means for survival. Such is the case with the Pennsylvania county that was studied.

A second finding of the case study is that the constitutional provision which prescribes the duties, roles, and relationships of the "constitutional officers" causes a severe test of the operational capability of the county government. To grant budgetary control to five major departments or functions within the organizational structure of the county is to grant the policymaking authority to these elements. But to mandate that the Board of County Commissioners fund these budgetary requests is to abort all efforts at fiscal control within the county. It undoubtedly results in an inflation of the budget, thereby causing a millage rate in excess of that which would be applicable were it necessary for the constitutional officers to compete for the funds along with all other elements of the county. Policymaking is a role reserved for the legislative element of county government. And that, by statute, is the Board of County Commissioners.

At the end of the preceding chapter there were listed four arguments. These arguments represent opinions formed by this researcher based on analysis of data that was discussed in the earlier chapters. The argument presents a position that should agree with the empirical research. These arguments will now be evaluated in terms of the findings from the research.

Argument 1 essentially says that the political system has failed to provide clearly defined roles and responsibilities for the competing actors. The empirical research clearly supports this argument. First, the preceding discussion pertaining to the constitutional officers at the county level is indicative of a failure to assign proper roles

and responsibilities. At the county level there is no control; it is an unmanageable situation. It grants the policymaking role to the servicing element. This is operationalized through the funding mechanism. Second, the failure to assign roles and responsibilities within organizational capacities has resulted in a majority of the revenues available to these local governments being used to finance programs and activities that were mandated on the local service delivery system. As a result of this action only 29 percent of the revenue are considered to be discretionary. Thus a local government with a \$10,000,000 budget will be providing \$5,000,000 of public goods and services in accordance with the priorities of an ordinate level of government and will have less than \$3,000,000 to satisfy the needs and demands of the local population. The problem lies in the fact that the services being provided in accordance with the ordinate level priorities do not necessarily satisfy a local need; the requirement had not been legitimated. And until a need is considered to be legitimate, there is no way of determining if a need was satisfied.

Argument 2 is essentially an argument on federalism and overlapping jurisdictions. The argument centers around the concept of federalism that is to be addressed or utilized. This study used the definition provided by K. C. Wheare, a classic in the field. Using this definition, the empirical data clearly demonstrates that mandating has caused significant deterioration within the operational capabilities of the local governments. The dominant aspect of the impact that occurs is within the realm of the policymaking process. Given that this is the dominant effect, it follows that all other elements of the service delivery system will be altered so that a degree of consonance is

reached. Once non-local revenues are received at the local level they are intermeshed with own-source revenues to the extent their origin becomes indeterminant. Since the non-local revenues have conditions-of-aid attached, the intermeshed funds now are in a position of providing a non-local priority. And this includes the own-source funds that become intermeshed with the non-local funds. At this point there is no negotiation. What is there to negotiate? The ordinate level agency has achieved its goals and objectives through mandating. And the exercise has been aided and abetted by the local government.

Argument 3 is simply a question of dependency. At what point does an entity lose its identity and become an element of the ordinate level of government? Given that mandating, by definition, usurps a portion of the autonomy of a local government, it is logical to assume that at a given point the entity will lose its autonomous nature and the jurisdiction, in effect, will cease to exist. The case study, in its analysis of the Pennsylvania county, clearly demonstrates that such a condition has been reached, or is near.

It is argued that the condition is not absurd or that remote. It was found that local governments use more than half of its revenues to fund programs and activities that are mandated upon them. As a normal measure, these recipient governments must participate financially to some degree--it may be service in kind but it still represents an expense. When combined, it is found that the jurisdiction has lost the right to bargain for a major portion of its services.

Argument 4 pertains to the determination and satisfaction of local needs and demands. The empirical research found that displacement is

a significant factor associated with the mandating activity. It was also found that personnel mandates cause a reduction in planned services. The incongruence cited in the argument is validated by the empirical data. The case study found that where jurisdictions were provided adequate revenue authority these local governments devised innovative ways of alleviating the unmet needs and demands.

Directions for Further Research

There are some that would ask if a functioning federalism is feasible. Others might ask if such a concept was desirable. Obviously, the decision as to whether functioning federalism is feasible or desirable is dependent upon an accepted definition for federalism. And that definition is lacking.

The definition of federalism suffers from the lack of clearly defined goals and objectives for the competing actors. Until such time as these goals and objectives are established, a clear definition cannot be rendered. Given these goals and objectives for the competing actors it becomes a simple process to define federalism. It is simply a question of which level is to provide the public goods and services. This facilitates the determination of whether a functioning federalism is feasible or not. And the answer to that question will be in the affirmative.

But what of roles and responsibilities for the competing actors under this concept of functioning federalism? For it is this lack of clearly defined roles and responsibilities that creates the problem within the current concept of intergovernmental relations. To be more specific, it is the gap between theory and practice that is the problem. What is needed is the narrowing of this gap. This might

require the alteration of the theory or the practice, or both. It would require that parameters be established which would constrain the range and scope of activities that could be imposed upon a subordinate level of government. The key to whether such an endeavor can be effective is coordinative action. This alone will serve to narrow the gap between theory and practice.

The complexity of the mandating aspect of a functioning federalism can be illustrated by citing a recent event. In central Florida a new wastewater treatment facility was to be constructed. The design capacity of the facility was such that it would require all of the local governments in the area plus parts of two counties to become partners in the operation of the facility in order for it to be efficient and economically feasible. The funding for the facility came from the Environmental Protection Agency (EPA) in the form of a grant. Unfortunately, the facility does not operate in accordance with the design specifications. Corrective measures are planned at a cost in excess of \$30 million. And therein lies the problem. Who is responsible? Who bears the cost of the repairs?

The arguments are many. Some argue that the federal government must share responsibility since the EPA dangled offers of a 10 percent larger grant if the recipient government would use a new innovative technology as part of the plant's treatment system--and it was this system that failed. It is also contended by some that the state must bear a share of the responsibility since state officials "forced" the closure of other treatment facilities on the basis that these older facilities could not meet the design specification for effluents that were contained in the new facility. These local governments were thus

forced into becoming partners in the new facility. These jurisdictions agreed to share in the operating costs but not in the construction costs. The following are typical questions posed as a result of this set of circumstances.

1. What is the federal responsibility?
2. What is the state responsibility?
3. Was force used to coerce the local governments to participate as partners in the operation of the facility?
4. Given that the facility was not operating at design capacity, it was necessary to place a moratorium on connections to the system. Several large developments are awaiting hookup approval. Do these property owners have a basis for a lawsuit?
5. Given that the partners agreed to pay a share of the operating costs, can they be held responsible for design errors?

And the questions could go on and on--and they probably will. It is within this context of intergovernmental relations that areas for further research will be addressed.

First, and foremost, there is a need to clarify the roles and responsibilities for all competing actors within the intergovernmental relations arena. This can be accomplished only if appropriate goals and objectives are determined and assigned. Such delineation must of necessity consider the ability of each level of government to independently finance its own level of public goods and services, its own goals and objectives. This would require the reordering of fiscal policies to include revenue authority.

Second, there is a need to examine the use, or lack thereof, of coordinative action within the intricacies of intergovernmental relationships. By definition, intergovernmental relations exist on

the basis of shared responsibilities. There is an ever-changing set of relationships that are needed for any given problem. This dictates the optimum utilization of coordinative action.

Third, there is a need to evaluate the efficacy of the mandating process. Does it accomplish its intended goals and objectives? Were these goals and objectives legitimate? How were the outcomes measured? Are these outcomes worth the deterioration that mandating causes to traditional concepts of service delivery? These and many more questions need to be answered.

And last, but not the least, there is a need to explore mechanisms that will restore the concept of territorial democracy. By territorial democracy, it is meant a dynamic community where the citizens share common goals and common objectives. The unravelling of the threads of the federal system are evident. What is needed is the restoration of the matrix that is required to hold it together. One key to this process is the political party. Not a national party but one that will cause the citizens to become involved in the matters that affect their community. Through this and other measures, perhaps, voter apathy can be reversed. We might even get to the point where the average citizen will know who is in charge, who is responsible. And more significantly, care.

At that point we would have a functioning federalism.

APPENDIX A

Empirical Methodology

The study used two base areas for sources of information. The first, and primary, is a nine county region of North Central Florida. The second area consists of two counties in the Lehigh Valley region of Eastern Pennsylvania. This second area provides a basis for comparative analysis. While the two areas are similar in many demographic aspects there are significant environmental differences. Specifically, the state of Pennsylvania has a constitutional amendment (although limited in applicability) against mandating without reimbursement while Florida's constitution does not contain such a constraint against mandating.

Three methods of gathering information were utilized. First, a questionnaire was designed to generate a broad base of information. Specific questions were developed and grouped so as to obtain responses to varying aspects of a particular area of concern. Second, a "case study" method was used to provide in-depth analysis of the mandate issue in one county-level jurisdiction from each geographic area. The third technique consisted of interviews with key officials in order to expand or clarify areas of conflict.

The study used a combination of local governments and officials from these jurisdictions. The questionnaire at TAB A was mailed to officials occupying key positions within the structure of the local government. This distribution was as follows:

Key Informant	Florida	Pennsylvania
County Level		
Commissioners	45	10
Administrators	2	2

City Level (over 25,000 pop)

Commissioners	10	5
Managers	2	1

City Level (1,000 to 25,000)

Mayor/Borough President	15	4
Managers	15	4
Totals	89	26

The selection of key informants was restrictive in nature and reflects first-hand knowledge of the organizational structure of the jurisdictions involved. Only two of the Florida counties have administrators. Municipalities of less than 1,000 population were excluded since the information from these levels would be of doubtful value for comparison purposes. The townships within Pennsylvania were excluded for like reasons. In addition, no special districts or authorities were considered to be representative. These decisions were made in order to insure homogeneity of the sample.

The initial response rate was low. Investigation into the problem revealed that many of the intended respondents were deeply involved in the more pressing problem of campaigning for reelection. In addition, the due date specified conflicted with the budgetary process. Consequently, a notification was mailed to the selected officials which expressed an understanding of these problems and extended the due date. This action seemed to resolve the problem and completed questionnaires were returned as follows:

Florida.....44 of 89 (49 percent)

Pennsylvania.....16 of 24 (62 percent)

Both the number of returns and the rate of returns is considered adequate to ensure validity.

The information generated by the questionnaire was considered sufficient for generalization of findings. However, the need to delve somewhat deeper into the problems associated with the mandate issue was evident. To facilitate this analysis a comparative case study of one county in Florida and one county in Pennsylvania was accomplished. The information for this analysis was obtained by interview with officials of the respective counties.

Specific note is made of the comments that were provided by the respondents to the questionnaire. Although these comments are not included in the statistical analysis they are nonetheless a valuable source for gaining an insight into the perception and understanding of mandating and the intergovernmental relations concept. These comments are therefore incorporated into the discussion of the statistical findings.

There are many ways to evaluate data. This study disaggregates the cumulative data into specific areas that are related. These areas are:

1. General attitude of the respondent as to the effect that mandating has upon operational capability to include general and specific areas of constraint.
2. Assessment of the displacement aspect that is associated with mandating.
3. The effect that mandating has upon funding local needs and demands.
4. The effect that mandating has upon the processes of democratic control.

5. The effect that mandating has upon the personnel function. The information gathered was computerized and statistically evaluated in accordance with the above areas of concern. The resultant data was analyzed and constitutes the findings of this study.

The use of the case study technique is considered to be of immense value to the overall study. It was through this method that some of the more significant aspects of the problem were divulged. More specifically, it corroborates the normative aspects of the study and validates the findings of the data obtained by questionnaire.

TAB A

QUESTIONNAIRE

Instructions: Read the question carefully. Circle the answer that best describes your understanding of the problem raised by the question. Detailed information is not required - a considered opinion is adequate. You are encouraged to provide comments where indicated.

1. Which one of the following best describes your view of the mandate issue as it applies to your local government?
 - a. Mandates are beneficial to local governments;
 - b. Mandates are not beneficial but are necessary;
 - c. No opinion;SKIP TO QUESTION 12
 - d. Mandates create some problems;
 - e. Mandates create significant problems.
2. Are you aware of any state mandate which changed:
 - a. a policy which was established by your government?

NO

YES (List) _____

- b. an operating procedure established by your government?

NO

YES (List) _____

- c. an organizational structure established by your gov't?

NO

YES (List) _____

3. Which of the following is effected the most by mandates:

- a. Locally developed policy;
- b. Locally developed processes or procedures;
- c. Locally designed organizational structures;
- d. All are affected equally;
- e. Other (List) _____

4. Which one of the following best describes the impact of state-initiated revenue constraints on the capacity of your local government to generate revenues:

- No significant impact;
- A small impact;
- No opinion.....SKIP TO QUESTION 12
- A moderate impact;
- A large impact

5. Listed below are the three types of revenue constraint mandates and a group of descriptive words. Circle the word that best measures the impact on your government by each type of constraint:

a. Revenue base	None	Small	Unk	Mod	Large
b. Revenue rate	None	Small	Unk	Mod	Large
c. Expenditure limit	None	Small	Unk	Mod	Large

6. During the past five years have state mandates limited the capacity of your government to generate revenues?

- YES
- NO.....SKIP TO QUESTION 12

Following are some of the budget categories for public goods and services provided by local governments:

- A. Administrative Services
- B. Public Safety (Police, Fire Protection, EMS, Eva, etc.);
- C. Public Works (Streets, Roads, Drainage, Sewers, Main., etc.);
- D. Social Services (Libraries, Meals of Wheels, etc.);
- E. Recreational Services (Parks, Pools, Youth Programs, etc.);
- F. Capital Improvement Program (Major equipment, buildings, etc.);
- G. Other (List) _____

7. Based on your answer to Question 6 was it necessary for your government to reduce the planned level of service in one or more of the budget categories listed above in order to accomodate the mandate?

- YES
- NO.....SKIP TO QUESTION 9

8. Listed below on the left are years. In the center are letters which refer to the budget categories listed above. At the right is scale designed to measure relative impact. For the year indicated select the letter which corresponds to the area which was affected the most by the revenue constraint. Then select the word at the right that best describes the impact

that the reduction had on the program or activity.

Year	Program or Activity							Impact caused by reduction				
	A	B	C	D	E	F	G	None	Small	Unk	Mod	Large
1979	A	B	C	D	E	F	G	None	Small	Unk	Mod	Large
1980	A	B	C	D	E	F	G	None	Small	Unk	Mod	Large
1981	A	B	C	D	E	F	G	None	Small	Unk	Mod	Large
1982	A	B	C	D	E	F	G	None	Small	Unk	Mod	Large
1983	A	B	C	D	E	F	G	None	Small	Unk	Mod	Large

9. The previous question pertained to a reduction in the planned level of services. Sometimes it is necessary to defer a project until new resources become available. For the years indicated circle the letter which corresponds to an area where a project or major portion of that project was deferred. Then indicate in the right section the year that the deferred project or portion was funded.

Year	Program or Activity							Year when funded					
	A	B	C	D	E	F	G	80	81	82	83	84	
1979	A	B	C	D	E	F	G	80	81	82	83	84	Unfunded
1980	A	B	C	D	E	F	G		81	82	83	84	Unfunded
1981	A	B	C	D	E	F	G			82	83	84	Unfunded
1982	A	B	C	D	E	F	G				83	84	Unfunded
1983	A	B	C	D	E	F	G					84	Unfunded

10. For the years indicated which of the following is the major source of revenue used to fund the delayed or deferred activities indicated in Question 9 above?

'79	'80	'81	'82	'83	Source
()	()	()	()	()	Same as originally programmed
()	()	()	()	()	Federal grants
()	()	()	()	()	State grants
()	()	()	()	()	Other state funds
()	()	()	()	()	Other local resources
()	()	()	()	()	User fees (e.g., for use of libraries)
()	()	()	()	()	Shifted to private sector (Contract)

11. In the left column below are some of the sources of revenue for local governments. In the right column are various percentages. Indicate in the right column your estimation of the proportion of each source that is used to fund mandated actions (i.e., what percentage of the revenues received is used to fund programs or activities that are mandated upon your government).

Source of revenue	Percentage for mandated actions			
a. Federal	0-25	26-50	51-75	76-100
b. State taxes	0-25	26-50	51-75	76-100
c. Local taxes	0-25	26-50	51-75	76-100
d. User fees	0-25	26-50	51-75	76-100
e. Other	0-25	26-50	51-75	76-100

12. Local governments have two broad categories of expenses: fixed and variable. Fixed costs are expenses over which local officials have no immediate control such as utilities, debt servicing, certain payroll expenses, retirement and death benefits, etc. Variable expenses are discretionary; officials have a certain amount of leeway with how the funds are to be utilized. Given this general definition, estimate the portion of your total budget that was discretionary or controllable for the years indicated.

Year	Discretionary percentage estimate				
1979	0-25	26-50	51-75	76-100	Unknown
1980	0-25	26-50	51-75	76-100	Unknown
1981	0-25	26-50	51-75	76-100	Unknown
1982	0-25	26-50	51-75	76-100	Unknown
1983	0-25	26-50	51-75	76-100	Unknown

13. Which one of the following best describes the impact of personnel mandates on the operations of your local government:

- a. No significant impact;
- b. No opinion.....SKIP TO QUESTION 15
- c. A small impact;
- d. A moderate impact;
- e. A large impact.

14. Listed below are statements pertaining to personnel mandates. Indicate if you agree or disagree with each of the statements. Your comments would be appreciated.

Personnel mandates -

a. restrict the capacity of local governments to establish a personnel program based on locally determined needs;

Agree _____

Disagree _____

b. limit the ability of officials to "hire and fire";

Agree _____

Disagree _____

c. limit or restrict the capacity of local officials to negotiate with local employees;

Agree _____

Disagree _____

d. create uncontrollable expenditures for retirement and death benefits;

Agree _____

Disagree _____

e. are appropriate when used to establish training requirements for certain employees (e.g., police, firemen);

Agree _____

Disagree _____

f. are necessary in order to insure uniform policy;

Agree _____

Disagree _____

g. are necessary in order to insure uniform procedures;

Agree _____

Disagree _____

h. are necessary in order to maintain comparability in pay;

Agree _____

Disagree _____

i. require excessive reporting;

Agree _____

Disagree _____

j. sometimes requires that other public goods or services be reduced in order to fund personnel mandates;

Agree _____

Disagree _____

15. Local governments are said to operate through the process of democratic control with elected officials accountable to the voters. This accountability can be either fiscal or political. Given that this is true, indicate on the scale the extent to which you agree or disagree with the following:

a. Mandates have little or no effect on the capacity of local officials to determine and satisfy the needs and demands of their constituents;

Agree No Opinion Disagree

1 2 3 4 5 6 7

b. Local officials should be held fiscally accountable for all revenues collected and expended by the local government;

Agree No Opinion Disagree

1 2 3 4 5 6 7

c. Local officials should be held politically accountable for all activities conducted by the local government;

Agree No Opinion Disagree

1 2 3 4 5 6 7

d. It is appropriate for officials to be criticized for their actions even though the specific activity was mandated and the official had no control over its outcome;

Agree No Opinion Disagree

1 2 3 4 5 6 7

e. In general, the election process provides an adequate forum for candidates to inform the public of the problems associated with intergovernmental relations.

Agree	No Opinion				Disagree	
1	2	3	4	5	6	7

f. The public is well aware of the problems of intergovernmental relations (as illustrated by the mandate issue) and gives due consideration to these problems when assessing the performance of an incumbent elected official.

Agree	No Opinion				Disagree	
1	2	3	4	5	6	7

g. Mandated actions have little or no effect upon the outcome of local elections.

Agree	No Opinion				Disagree	
1	2	3	4	5	6	7

16. Here are some methods used by local governments to determine the needs and demands of the community. Indicate the frequency with which these methods are used by your government:

Method	Frequency		
a. Citizen surveys	Often	Seldom	Never
b. Personal contact	Often	Seldom	Never
c. Citizen participation	Often	Seldom	Never
d. Election issues	Often	Seldom	Never

17. Considering all of the requirements placed on your government to provide public goods and services what percentage of these are locally determined as compared to those which operate in accordance with some directive from a higher level of government?

- a. Less than 25 percent are locally determined and controlled.
- b. More than 25 percent but less than 50 percent.
- c. More than 50 percent.
- d. More than 75 percent
- e. No opinion.

18. How well does your government meet the needs of the community for public goods and services?

- a. Very well
- b. Adequate
- c. No opinion
- d. Not too good
- e. Unsatisfactory

This completes the questionnaire. The following information is needed for comparative analysis. Please complete.

19. Are you an elected official?

YES

NO

20. Are you associated with county government?

YES

NO

21. Indicate the size of the jurisdiction which you represent:

- a. City with less than 5,000 population;
- b. City with more than 5,000 but less than 25,000;
- c. City with more than 25,000 population;
- d. County with less than 100,000 population;
- e. County with more than 100,000 population.

22. How many years have you been in this position (circle one):

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 more

THANK YOU!

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BIOGRAPHICAL SKETCH

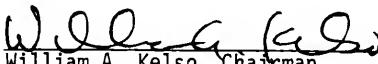
Mr. Ridgdill was born August 26, 1926 in Vidalia, Georgia. He graduated from the University of Georgia in 1951 with a Bachelor of Science (Chemistry) degree. He accepted a Regular Army commission as a Second Lieutenant, U.S. Army Chemical Corps and reported for active duty in June, 1951. In 1955 he was selected to attend the Army Comptrollership Course, Syracuse University and was awarded the Master of Business Administration degree from that institution in 1956. He retired in 1972.

Colonel Ridgdill's military career included various assignments in the areas of financial and program management. During the period 1967-1971 he was the U.S. representative to a NATO element tasked to plan, develop and operationalize a missile testing facility in Greece. Concurrently, he was Program Director for a budget in excess of \$400 million annually.

Mr. Ridgdill has taught at the University of Maryland (Korea); Jacksonville (Alabama) State University; Georgia Institute of Technology; and at Daytona Beach Community College. He was Executive Director, University of Florida Institute of Government, from September 1981 until May 1983.

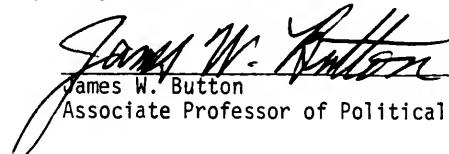
Mr. Ridgdill is married. He and his wife, Doris, reside in New Smyrna Beach, Florida.

I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Doctor of Philosophy.



William A. Kelso, Chairman
Associate Professor of Political Science

I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Doctor of Philosophy.



James W. Button
Associate Professor of Political Science

I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Doctor of Philosophy.



Ralph B. Kimbrough
Professor of Educational Administration
and Supervision

I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Doctor of Philosophy.



Albert R. Matheny III
Assistant Professor of Political Science

I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Doctor of Philosophy.



Richard K. Scher
Associate Professor of Political Science

This dissertation was submitted to the Graduate Council of the Department of Political Science in the College of Liberal Arts and Sciences and to the Graduate School, and was accepted as partial fulfillment of the requirements for the degree of Doctor of Philosophy.

December 1984

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